

RESOLUTION NO. 12332

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A MASTER USE PERMIT (UP 04-007), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED 04-063) AND VESTING TENTATIVE MAP (TM 04-001) 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; 009-142-070)

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

WHEREAS, in February 2005, Thompson/Dorfman, 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 on Point San Pedro Road and Loch Lomond Drive; and

WHEREAS, Master Use Permit, Environmental and Design Review Permit and Vesting Tentative Map applications were filed concurrent with applications requesting a General Plan Amendment and Rezoning to expand and amend the adopted PD-W/O District. The purpose of these applications is to approve land uses, a specific development design and a subdivision design to be consistent with the concurrently requested General Plan Amendment and Rezoning actions; 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. Following the preparation of a Draft Environmental Impact Report (DEIR) that was subject to a 60-day public review period, 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), appendices containing technical background studies (Volumes 2 and 3), and an FEIR Errata/Supplement (July 2007); and

WHEREAS, on August 21, 2006, the City Council conducted the Priority Selection Process (PSP) for 2006 and voted to grant PSP determination for the project, as designed in the February 2005 planning application submittal; and

WHEREAS, as a result of numerous public meetings with the Planning Commission, Design Review Board and the Park & Recreation Commission, and in response to recommendations from the FEIR, the project sponsor prepared a 'Mitigated Plan,' which reflected some changes to the general layout and distribution of land uses, an increase in neighborhood-serving uses and a reduction in the number of residential units (from 84 to 82 units total). The FEIR includes an 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 affects that were not previously identified, and that this Mitigated Plan responds to a number of recommendations in the FEIR intended to eliminate or reduce environmental effects; and

WHEREAS, following numerous public meetings, the Design Review Board and the Park & Recreation Commission recommended approval of the Mitigated Plan with conditions. The findings and recommendations from the Design Review Board and the Park & Recreation Commission are incorporated herein; and

WHEREAS, the plans submitted with the applications for the Master Use Permit, Environmental and Design Review Permit and Vesting Tentative Map have been supplemented to reflect the 'Mitigated Plan,' dated April 2007 and revised July 2007, and include exceptions from the following provisions of the San Rafael Subdivision Ordinance Sections 15.06.050 (Street Width Standards), 15.06.080(b) (Sidewalks and Walkways), 15.06.100 (Street Trees) and 15.06.110(b) (Drainage); and

WHEREAS, on April 24, 2007, the Planning Commission held a public hearing on the proposed Master Use Permit, Environmental and Design Review Permit, Vesting Tentative Map, accepting all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on May 8, 2007, the Planning Commission reviewed the proposed Development Plan, as revised, and recommended further changes to the site plan to include: 1) maintenance of a 50-foot development-free wetland setback along the eastern and southeastern border of the residential area (Encroachment Area 4, as defined in Finding #7 below), which is adjacent to seasonal marsh, tidelands and seasonal wetlands; 2) an allowance for filling Wetland E, a small, manmade drainage ditch of 278 square feet located within proposed residential area of the project site; and 3) revising the pitch/grade of the roofs of the two-story residential units sited along the southern border of the residential area and fronting the marina green and boardwalk in order to reduce the building height and increase north views to San Pedro Ridge. With incorporation of these changes, the Planning Commission recommended to the City Council approval of the Master Use Permit, Environmental and Design Review Permit, Vesting Tentative Map and requested exceptions to the San Rafael Subdivision Ordinance by adoption of Resolution No. 07-05; and

WHEREAS, the City Council has certified the Village at Loch Lomond Marina Final Environmental Impact Report (FEIR) and approved a Mitigation Monitoring and Reporting Program (MMRP) by adoption of a separate resolution; and

WHEREAS, on June 18, 2007 and July 16, 2007, the City Council held one public hearing and one public meeting, accepting all oral and written public testimony and the written report of the Department of Community Development. The City Council has considered the public testimony and all written information in rendering a decision on the planning applications; and

WHEREAS, in response to comments from the City Council hearing and meeting, additional revisions to the Development Plan were made, which include the following changes and a reduction in the total residential units from 82 to 81:

- 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.

NOW, THEREFORE BE IT RESOLVED, the City Council makes the following findings related to the Master Use Permit, Environmental and Design Review Permit, Vesting Tentative Map and requested exceptions to the provisions of the Subdivision Ordinance (SRMC Title 15):

Findings for Master Use Permit
(UP 04-007)

1. The proposed marina, marine-related, neighborhood commercial, mixed-use, residential, recreation and wetland land uses, as conditioned, are in accord and consistent with the San Rafael General Plan 2020, as amended by GPA 05-001, the General Plan Vision Statement for the Loch Lomond neighborhood, the objectives of the Zoning Ordinance, and the purposes and required findings of the Planned Development (PD) and Wetland Overlay (WO) Districts set forth in SRMC Sections 14.07 and 14.13, respectively, in that: a) marina and marine-related uses would be retained and enhanced with this development to ensure the operation of a full-service marina (General Plan 2020 Policy NH-118); b) the neighborhood commercial and mixed-use component, in addition to the marina support uses would result in a gross floor area ratio building area of 0.10, which would be well within the 0.32 floor area ratio limit set forth in the San Rafael General Plan 2020 for non-residential use (General Plan Exhibit 4); c) the residential use would result in an overall, gross density of 7.5 dwelling units per acre, which would be in the low-range of the residential density that is permitted under the Neighborhood Commercial (6.5 to 15.0 dwelling units per acre) land use designation; d) the project would preserve designated wetlands on the project site (with the exception of Wetland E, a 278-square-foot manmade drainage ditch) and expand the larger seasonal wetland area (Wetlands A and B) by 9,500 square feet, which include provisions for wetland setback enhancements (General Plan 2020 Vision Statement for Loch Lomond Neighborhood, Policy NH-118 and Policies CON-2 and CON-4); and e) would provide needed recreation improvements and amenities that would be accessible to the public and serve the surrounding neighborhood (General Plan Policy NH-118, Policy PR-3).
2. The proposed marina, marine-related, neighborhood commercial, mixed-use, residential, recreation and wetland land uses, together with the conditions applicable thereto, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City in that: a) a Final Environmental Impact Report (FEIR) has been prepared and adopted for the project pursuant to the provisions of the California Environmental Quality Act (CEQA) which finds that all potentially significant project impacts related to health and safety can be adequately mitigated to a less-than-significant level with the implemented mitigation

measures outlined in the approved Mitigation Monitoring and Reporting Program (MMRP) for which compliance is required by conditions of this approval; and b) the project has been reviewed by the appropriate City departments and permitting agencies and has been conditioned accordingly to avoid such detriment. The on-site parking proposed for the neighborhood commercial and residential uses that are covered under this Use Permit comply with the parking requirements set forth in the San Rafael Municipal Code. As proposed, the parking provided for the marina and recreation/park uses would: a) meet the parking demands for peak use periods as determined by two parking studies prepared by licensed traffic engineers; and b) have been designed to incorporate a 'parking reserve' and 'landscape reserve' as a contingency for future parking needs. Further, the project design includes 16 dry dock boat storage spaces in the marina day-use parking lot to meet local resident need. As conditioned, parking demand for these uses would be monitored for a period of two years following completion of the project to determine if: a) additional parking is warranted or if there is excess parking to trigger the implementation of the 'parking reserve' or the 'landscape reserve; and b) the need for dry dock boat storage is sustained or if this area should be converted to marina day-use vehicle + trailer parking, if such demand arises.

3. The marina, marine-related, neighborhood commercial, mixed-use, residential, recreation and wetland land uses, together with the conditions applicable thereto, would comply with each of the applicable provisions of the PD District contained in the Zoning Ordinance and other applicable provisions in the Zoning Ordinance.
4. Conservation Policies CON-2 and CON-3 recommend preserving wetland resources and encourage that wetland fill be avoided. However, specifically, Policy CON-3 does not prohibit the fill of wetlands, rather, it reinforces a position that wetlands should be avoided, and, where they are not avoidable provides for appropriate mitigation ratios. As conditioned, the project includes the preservation of all but one of the existing jurisdictional wetlands on the project site that have been designated by the US Army Corps of Engineers, and is therefore in compliance with General Plan Policies CON-2 and CON-3, and the Neighborhood Element Vision for the Loch Lomond neighborhood. Although Wetland E technically qualifies as a wetland protected under Section 404 of the Clean Water Act, this manmade drainage ditch is predominated by non-native vegetation, performs few wetland functions and has very low biological value. The City Council finds that the filling of Wetland E, a small manmade drainage ditch of 278 square feet located within the proposed residential area of the project site would not be in conflict with these policies in that:
 - a. Two biological resource consultants have reviewed and analyzed the conditions, size and location of this small wetland finding that it has limited biological value; and
 - b. While this wetland is hydrologically linked to other surface water and drainage ways on the project site, it is geographically isolated from and not in close proximity to other more significant, higher valued wetland resources located on the project site.
 - c. Although it has been demonstrated that this small wetland can be preserved and protected under the current site plan layout, the resulting conditions are not optimum in creating an adequately designed wetland buffer from contiguous development in that required site grading and fill would result in the wetland being several feet lower than adjacent land area, creating a potential safety problem. A more ample wetland buffer with wider setbacks can be provided consistent with Policy CON-4, but compliance with the provisions of this policy

(50-foot development free setback) would dramatically impact the layout of the site plan, including the potential elimination of up to seven residential units. Such a change in the site plan would compromise the ability for the City to achieve other equally important goals and policies of the General Plan 2020, that are intended to preserve the marina use and promote housing, neighborhood commercial and recreation uses. The filling of the 278-square foot drainage ditch would be off-set and substantially mitigated by the proposed 9,500 square-foot expansion of the two large seasonal wetlands (Wetlands A and B) located at the southeast end of the project site, which is a replacement ratio of 31:1.

It is not possible to create a biologically and hydrologically valuable condition at Wetland E without substantially encroaching in areas of the site devoted to housing, which would undermine the project's ability to meet identified project objectives for housing. Further, the retention of Wetland E would present a nuisance and safety hazard, and, because of its isolated and location and depressed elevation, would be difficult to maintain as a viable wetland. In summary, the City finds that in light of its limited biotic value, the evidence indicates that the filling of Wetland E and the mitigation that is proposed for this project: would be consistent with Policies CON-2 and CON-3 by proposing a 31:1 wetland replacement ratio; and would accomplish and achieve the implementation of other elements of General Plan 2020 Policy NH-118 that propose the retention of the marina use, enhancement of neighborhood commercial use and development of new housing.

5. While the project design, as revised, would result in the encroachment of project uses, activities and improvements within the City-adopted 50-foot wetland setback (required by General Plan 2020 Policy CON-4 and SRMC Section 14.13.040.B) at three (3) specific locations on the project site defined as Encroachment Area 1, Area 2, and Area 3 on the project site plan, in adopting Policy CON-4, it was the intent of the City that the term "minor encroachment" as used in that policy would not be interpreted in the abstract, but instead in relation to impact on the wetland. Thus, a structure which might be considered a "major encroachment" if: a) built near a highly sensitive wetland with high biotic value could nevertheless be considered a "minor encroachment" when constructed near a degraded wetland with low resource value; or b) when the impact on the wetland is minimal or non-existent despite the proximity of the improvement; or c) when the mitigation associated with the improvement results in an overall improvement to wetlands conditions. Based on the findings for consistency with Policy CON-4 set forth in the City Council's approval of the PD-W/O District for this property, which findings are incorporated herein, the provisions of this Master Use Permit would: a) protect all wetlands with exception of Wetland E; b) preserve the function of wetlands to the extent feasible; and c) expand and enhance on-site wetlands. The mitigation measures undertaken with respect to such improvements will result in enhancing the existing wetland buffer conditions, which would not be available in the absence of such required mitigation. Further, all structures, pavement and improvements within fifty feet of wetlands constitute only "minor encroachments" within the meaning and intent of Policy CON-4, as such encroachments are in areas where wetlands abut active marina uses and improvements, and where providing larger setbacks would not improve the function of these wetlands. As revised, the City Council has required that a 50-foot development-free wetland setback be provided in Encroachment Area 4. Area 4 encompasses the eastern border of the residential area, where a pedestrian path was initially proposed to encroach an average of 10-15 feet within 50-feet of marsh and tidelands, which is a location that is currently developed with pavement and a

commercial delivery/service area for Loch Lomond Market. Further, with the City Council's action to permit the filling of Wetland E, the request for wetland setbacks encroachments within Encroachment Area 5 is no longer applicable. Encroachment Area 5 encompasses the southeastern border of the residential area, where three residences, sidewalks, alley and street improvements are proposed immediately adjacent to this manmade drainage ditch/seasonal wetland.

Findings for Environmental and Design Review Permit

(ED 04-063)

1. The project design is in accord with the San Rafael General Plan 2020, as amended by General Plan Amendment application GPA 05-001 in that:
 - a. Consistent with Policy NH-118 (Loch Lomond Marina), the project as proposed and as conditioned would retain the existing full-service marina providing adequate land area and appropriate siting of marina parking, day use vehicle + trailer parking, dry dock boat storage, the harbormaster's office, restroom and support service facilities for boat berth tenants, the yacht club facility, a restaurant, boat repair and bait shop. As designed, these uses would be safely accessed from Point San Pedro Road and parking is appropriately distributed to provide access to each support use.
 - b. Consistent with Policies NH-118 (Loch Lomond Marina), NH-10 (Neighborhood Centers), NH-11 (Needed Neighborhood-Serving Uses), and LU-14 (Land Use Compatibility), the existing neighborhood commercial and grocery store/market facilities would be replaced near in-kind by new commercial facilities that are appropriately sited and designed to compliment the marina use function, provide improved visual and pedestrian access to the waterfront and be compatible in scale and mass with the accompanying residential units and surrounding neighborhood.
 - c. As designed, the project would preserve, with the exception of Wetland E, the existing seasonal wetlands located in the eastern portion of the project site, would create new on-site wetlands, would provide a variation in the design, scale and height of buildings, would site buildings to maintain views of the waterfront from the main project entrance and along the marina boardwalk, would provide central, safe vehicular access, including a secondary emergency vehicle access at the current Leith Lane intersection that is designed for conversion as a second vehicle access to the project, if warranted. These project design elements would be fully or generally consistent with General Plan Policies: 1) Land Use Element Policy LU-12 (Building Heights); 2) Neighborhood Element Policy NH-118 (Loch Lomond Marina); 3) Community Design Element Policies D-5 (Views) and CD-6 (Hillsides and Bay); and 4) Conservation Policies CON-1 (Protection of Environmental Resources), CON-2 (Wetland Preservation), CON-3 (Unavoidable Filling of Wetlands) and CON-4 (Wetland Setback).
 - d. As proposed and as conditioned, the project would provide an affordable housing component of for-sale, residential units in excess of 20% of the total project density on a housing opportunity site, which is consistent with General Plan Housing Element Policies H-19 (Inclusionary Housing Requirements). Further, as designed, the residential units would be consistent with Policy NH-118 and Policy NH-3 (Housing Mix) in that: 1) the residential units consist of a mix of larger, detached single-family homes, moderate-size single-family cottages, attached town homes and residential flats; 2) the units would be integrated into one neighborhood; and 3) would be compatible with the marina and recreation uses. In addition, the project would continue to provide 52 marina berths for

permanent residency (liveaboards), which provide affordable, permanent housing and would be consistent with Housing Element Policy H-10 (Protection of Existing Housing Stock).

- e. As proposed, the project would develop and dedicate an easement for public use of 2.0-2.5 acres of recreation and park improvements which include facilities for fishing, kayaking, picnicking, equipped play areas for children, hiking and pedestrian paths and supporting restrooms and parking, which is consistent with General Plan Park and Recreation Element Policies PR-1 (Park Standards), PR-3 (Neighborhood Recreation Needs), and PR-17 (Park Design).
 - f. As proposed, the project would include the installation of a new storm water drainage system to convey site run-off into a closed system designed to accommodate a 100-year storm event, which would be consistent with General Plan Safety Element Policy S-17 (Flood Protection of New Development). In addition, the storm water drainage system has been designed consistent with the hydrology analysis incorporated into the FEIR, which assessed a worst case combination of storm and tidal events used by the State of California (Caltrans). Further, as designed and conditioned, the project incorporates water quality measures to treat and reduce the amount of pollutants from project runoff, which would be consistent with Air and Water Quality Element Policy AW-8 (Reduce Pollution from Urban Runoff).
 - g. As determined and conditioned by the Design Review Board, the project presents an innovative and extraordinary design that is recommended by Policy Neighborhood Element Policy NH-118 (Loch Lomond Marina) in that: 1) the siting of buildings and the design of improvements preserve views of the waterfront and would draw people into the site and waterfront; 2) buildings along the Point San Pedro Road frontage have been carefully designed to be limited in height (single-family residential cottages limited to one-story) and scale (step back of upper floor on the mixed-use building) to achieve compatibility with surrounding, developed neighborhood; 3) the southern, one-story neighborhood commercial building and restaurant are designed and oriented to maximize visual and pedestrian access to the adjacent public plaza and waterfront; 4) the project would incorporate ample pedestrian and bicycle connections through the site and to the waterfront; 5) the project would include publicly-accessible recreation facilities and improvements that would be suitable for use by all ages (children to adult); and 6) the project presents an architectural style that is traditional to be compatible with the site setting and surroundings, yet extraordinary given the extent of architectural detail and finishes.
2. As proposed and as conditioned, the project design is consistent with the objectives and criteria of the Zoning Ordinance, and the purposes of Chapter 14.25 (Environmental and Design Review) in that:
- a. Following numerous plan revisions facilitated by the environmental review and public review process, the development, as revised presents a competent design that has been thoughtfully studied and presented.
 - b. As proposed, the site plan respects site features and constraints by: 1) preserving and expanding the existing seasonal wetlands in the eastern portion of the project site; 2) proposing no encroachments into tidelands; 3) respecting and enhancing the existing marina operation; 4) preserving view corridors to the waterfront at the main project entrance and along the marina boardwalk; and 5) proposing site filling to meet flood protection standards while maintaining the general, level topography of the upland portions of the site.

- c. The site plan, with modifications as recommended, provides safe vehicular, bicycle and pedestrian circulation on site and to the surrounding area as determined by the City Traffic Engineer, the Fire Department and two consulting traffic engineering firms. Similarly, the site plan proposes adequate on-site parking for all uses in the development to either meet parking code requirements or meet parking demand. The site plan incorporates several 'parking reserves' and 'landscape reserves' for areas where parking can be added or deleted based on future demand.
- d. The site plan proposes a drainage plan that would intercept project runoff and direct it into a closed, storm water drainage system that would be designed to fully accommodate a 100-year flood event, as described in finding 1.f, above. In addition, as conditioned, the project is required to incorporate water quality measures to treat urban runoff, which would be an improvement over current site runoff conditions, which are untreated.
- e. The project architecture has been designed to be harmonious with the surrounding buildings and improvements, in terms of building design and scale. Residential buildings have been designed to include one-story height limits (for single-family cottages along the Point San Pedro Road frontage) and second-floor dormer features to be generally compatible with the existing one- and two-story building heights in the surrounding neighborhood. While the architecture includes neighborhood commercial building elements that are larger in size and slightly taller than the residential structures within the development and the surrounding neighborhood, these structures are centralized at the entrance of the project site, which is the focal point to and the envisioned community gathering place on the project site.
- f. Buildings have been carefully sited and designed to enhance or minimize impacts to views of the Bay, the Marin Islands, wetlands and the marina. As designed, the project will provide the general public with much greater access to views of the Bay, the Marin Islands, wetlands and marina by reason of the greatly enhanced recreational facilities and public easements along the waterfront. As demonstrated in the simulations prepared for the FEIR and for review of project merits, views of the Bay and the Marin Islands have been protected from all mid-range and long-range vantage points. Although views of the marina basin and wetlands are diminished from some adjacent neighborhoods by reason of building construction, these views are enhanced for the general public by the creation of view corridors along Point San Pedro Road. Protection of all off-site views of the marina basin cannot be achieved if other mandates of NH-118, such as the provision of housing and neighborhood-serving commercial uses, are to be accomplished. However, on balance, the project design enhances or minimizes view impacts, as required by NH-118.
- g. The project design respects, to the greatest extent feasible, hillside views from the marina boardwalk, in conformance with Policy CD-5. Views from that portion of the marina boardwalk near the 11 homes along the marina frontage (200 yards long), will be somewhat obstructed. However, as recommended by conditions of approval, the design and roof peak/ridge of the two-story homes along the marina frontage is required to be lowered to improve views from the marina green north to the San Pedro Ridge. In addition, unobstructed views will be maintained through the three greenbelts (which widen from south to north) and the three parking courts. Views from the boardwalk, adjacent to the community plaza (50 yards long) would provide new, unobstructed views to the north through the project's wide entry. At present, these views are blocked by

the commercial building that houses the harbormaster's office, Bobby's Café, and Arena Yacht Sales. Views from the boardwalk adjacent to the day-use parking area (50 yards long) would provide much less obstructed views relative to the current view to the north, which is obstructed by boats stored in the adjacent dry boat and boat maintenance storage areas. Views from the eastern, curvilinear portion of the boardwalk (200 yards long), would provide completely unobstructed views of the hills to the north as is currently the case. Views from all locations along the 500-yard long boardwalk looking south to the Bay, west toward Mt. Tamalpais, and east toward the Berkeley hills will remain entirely unobstructed. While views looking north from the east and west spits, breakwater, and kayak launch area would not change as a result of the proposed project, these areas would be made much more attractive and useable. These recreational features would provide viewing areas with benches and picnic tables that will encourage the public's use of these currently unattractive and underutilized areas. Each will provide substantial and unobstructed views of the hills to the north. In general, reducing the height of homes from two- to one-story fronting the marina would not significantly change the views from the boardwalk looking north.

- h. The materials and colors that have been selected are consistent with the context of the surrounding area. Specifically, building materials such as board and batten siding, shingles, wood trim and masonry are proposed, which are materials that are common to existing structures in the immediate neighborhood.
 - i. As conditioned, fences would be sited and designed to provide privacy to the neighboring and proposed residents without compromising natural light to private yard areas or impairing views through the site to the waterfront.
3. The project design is consistent with the all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located in that: a) the project proposes a similar architectural theme throughout the development; b) the design and siting of the buildings and improvements would be respectful of the surrounding properties and property improvements; landscaping, streetscape and common area improvements are thoughtfully designed to complement the architecture of the buildings; and c) the project proposes the use of high quality materials.
4. The project design minimizes adverse environmental impacts in that:
- a. The existing seasonal wetlands (with the exception of Wetland E) and contiguous uplands in the eastern portion of the project site be preserved and restored. Nine-thousand five hundred (9,500) square feet of expanded seasonal wetlands would be created to offset the filling of Wetland E and the encroachment of project uses and improvements into the City-required 50-foot wetland setback. An adequate buffer is designed where such encroachments are proposed to reduce impacts from current conditions and assist in maintaining the function of the wetlands to the maximum extent feasible.
 - b. The project would implement water quality measures to reduce pollutants from runoff, which would be an improvement from current site conditions where runoff is untreated.
 - c. The project proposes building height limits that have been carefully designed to transition heights along the project edge (one-story building height limit for single-family residential cottages and second floor step backs for the mixed-use building and specific design and roof peak/ridge height limit for single-family

- homes fronting the marina green and boardwalk), which would provide compatibility with the surrounding neighborhood.
- d. Residential units have been sited to orient private yard areas away from noise exposure of Point San Pedro Road, to the extent feasible.
 - e. The project design includes a primary view corridor at the project entrance and several other smaller view corridors through the site along the Point San Pedro Road frontage, which are intended to provide views of the marina and waterfront to the extent feasible.
 - f. As designed, improvements to Point San Pedro Road/Loch Lomond Drive intersection are proposed to facilitate safe and efficient inbound and outbound traffic movements for the projected traffic.
 - g. The storm water drainage system proposed to serve the development has been designed to accommodate a 100-year storm event, consistent with General Plan Policy S-17 (Flood Protection of New Development), as summarized in finding 1.f., above.
5. As proposed and as conditioned, the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity in that:
- a. The environmental impacts associated with development of this project have been assessed and the project impacts can be mitigated to less-than-significant levels with the implementation of specific mitigation measures. Where appropriate, recommended environmental mitigation measures set forth in the adopted Mitigation Monitoring and Reporting Program (MMRP) have been incorporated as conditions of approval.
 - b. On-site storm water drainage improvements have been designed to divert property site runoff so that this runoff is deposited into a new, closed drainage system so that the increased runoff would be retained during peak storm and tide events, which would reduce the potential for flooding.
 - c. A Phase II Environmental Site Assessment has been prepared and incorporated into the FEIR, which concludes that: 1) there are no hazardous materials or substances on the project site that cannot be treated or removed; 2) there are no conditions on the project site that would be hazardous to residents, employees or visitors to the project site; and 3) there are no site conditions that would preclude or cause a threat to residential use of the project site.
 - d. The project has been designed so that the placement and heights of buildings would maintain privacy and natural light to adjacent properties.
 - e. The traffic impacts associated with the project, as revised estimate an increase in trip generation at the project site and increase in delay at local intersections ranging from 0-2.9 seconds in the AM peak hour and 0-3.9 seconds in the PM peak hour. However, the increase in traffic generation and intersection delays associated with the project would not change the level of service at any of the effected intersections.
 - f. The project, as revised has been designed to provide adequate on-site parking by either meeting the minimum City-adopted municipal code requirements for parking or providing adequate parking to meet peak use period demands. As conditioned, the parking for the marina and recreation use areas, which is based on peak use period demand would be monitored and contingency measures are in place (parking reserve) in the event additional parking is warranted.

Findings for Vesting Tentative Map
(TM 04-001)

1. As proposed and as conditioned, the Vesting Tentative Map, along with the accompanying improvements and the proposed exceptions to the San Rafael Subdivision Ordinance, would comply with the requirements and the provisions of the Subdivision Map Act and the San Rafael Subdivision Ordinance (San Rafael Municipal Code – Title 15) in that, the individual parcels and lots would be appropriately sized to serve their intended purpose, and the map and improvements would satisfy the required findings cited below.

2. As conditioned, the proposed subdivision, together with its design and improvements is consistent with the objectives, goals and policies of the San Rafael General Plan 2020, as amended by General Plan Amendment application GPA 05-001 in that:
 - a. The map is designed to establish separate parcels for the marina and marina support facilities (Parcels 80, 81, 82, A, X and Y) to accommodate the marina operation including marina berths, public boat launch, marina parking, day use vehicle + trailer parking, yacht club, restaurant, boat repair and service, bait shop and marina boardwalk. Further, where appropriate, these parcels include public access easements to recreation and park facilities that are to be publicly accessible. As designed and sized, these parcels have been appropriately sized and configured to be consistent with the San Rafael General Plan 2020 Marine-Related land use designation and Neighborhood Element NH-118 (Loch Lomond Marina), which encourage the preservation of a full-service marina and provisions for expanded publicly accessible park and recreation facilities at the project site.
 - b. The map is designed to establish separate parcels for neighborhood commercial and mixed-use (Parcels 78, 79 and W), which have been designed to accommodate the buildings that are proposed for these parcels, the parking needed to meet parking requirements for these buildings and a loading and delivery bay. The parcels are sized to accommodate new neighborhood commercial and mixed use buildings that are close in size to the existing neighborhood commercial buildings they are proposing to replace, which would be consistent with Neighborhood Element Policies NH-118 (Loch Lomond Marina), NH-10 (Neighborhood Centers) and NH-11 (Needed Neighborhood Serving Uses). These policies encourage the retention of existing neighborhood centers and services.
 - c. With the exception of the residential units in the mixed-use building presented on the project plans, the map is designed to establish a separate parcel for each residential unit (Lots 1-76). The residential units in the mixed-use building are designed to be under individual condominium ownership. The residential lots are appropriately sized and configured for the variety of residential unit types that are proposed and their respective private yard areas and access, which would be consistent with Neighborhood Element Policy NH-118 (Loch Lomond Marina).
 - d. The map is designed to establish separate, commonly owned parcels for roadway and pedestrian access (Parcels A through S) through the site, which, conditioned to include the recordation of a public access easement, would ensure public access to the shoreline and adequate access to each of the property owners within the development. Maintaining the road and pedestrian system as privately owned but inclusive of public access easements would be consistent with Neighborhood Element Policy NH-118a and NH-118b (Loch Lomond Marina), which encourage recreation improvements and public access to the shoreline.

- e. As recommended by conditions of approval, the map is designed to establish a separate, commonly owned parcel (Parcel V) for the purpose of preserving the existing seasonal wetlands and conservation area at the eastern portion of the project site. Parcel V is appropriately sized to accommodate expanded wetlands and wetland setback buffers. As sized and designed, Parcel V would be consistent with the San Rafael General Plan 2020 Conservation land use designation in that it is an area of visual and natural resource. Further, the protection and expansion of seasonal wetlands contained in Parcel V would be consistent with General Plan Conservation Element Policies CON-1 (Protection of Environmental Resources), CON-2 (Wetland Preservation), CON-3 (Unavoidable Filling of Wetlands), CON-4 (Wetland Setbacks) and NH-118c (Loch Lomond Marina- Birdwatching). As conditioned, the retention of this area as diked seasonal wetlands would be consistent with the recommendations provided by the California Department of Fish and Game and Conservation Element Policy CON-5 (Diked Baylands).
 - f. The map proposes that all improvements, including roads and infrastructure within the development be privately owned and maintained with public access and utility easements recorded where appropriate. For large common areas including roads and parking lots intended primarily for private use, maintenance would be borne by the owners' association. The formation of a Mello-Roos District is recommended for long-term funding and maintenance of publicly accessible areas developed with park and recreation improvements and Parcel V (conservation/seasonal wetland area), which would provide a guaranteed taxing measure and City oversight. These measures are consistent with Policy NH-118b (Loch Lomond Marina- Common Area Maintenance), which requires that the project provide a reliable and efficient means to maintain common areas.
 - g. The map is designed to include the installation of a new storm water drainage system, which would convey site run-off into a closed system designed to accommodate a 100-year storm event, which would be consistent with General Plan Safety Element Policy S-17 (Flood Protection of New Development). In addition, the storm water drainage system has been designed consistent with the hydrology analysis incorporated into the FEIR, which assessed a worst case combination of storm and tidal events used by the State of California (Caltrans). Further, as designed and conditioned, the project incorporates water quality measures to treat and reduce the amount of pollutants from project runoff, which would be consistent with Air and Water Quality Element Policy AW-8 (Reduce Pollution from Urban Runoff).
3. The subject property is physically suitable for the type, density and intensity of development that is proposed in that:
- a. The site and project design were reviewed by the Design Review Board, which determined that the project is in conformance with the design criteria established by San Rafael General Plan 2020 and the required provisions of Zoning Ordinance Chapter 25.
 - b. A Final Environmental Impact Report (FEIR) has been prepared, which contains information evaluating and supporting the suitability of the site for the proposed development. The FEIR includes mitigation measures, which have been included as conditions of map approval.
 - c. Adequate services and utility systems are available to serve the proposed site, uses and improvements. As conditioned, a portion of the project site is required to be annexed to the service area of the San Rafael Sanitation District.

- d. Adequate area is provided for the required parking and landscaping improvements, as well as private yard and/or patio areas for all residential units.
4. As proposed and as conditioned, the subdivision would not conflict with any existing or required easements in that the map and project have been designed to properly site and maintain: a) public trust easements recorded over submerged tidelands for commerce, navigation, fisheries, recreation and ecological preservation; and b) a public access easement over the northwest corner of the project site to serve the contiguous San Pedro Cove common open space that is recorded for public access. As proposed and conditioned, the map is designed to create new easements, which would memorialize public access through the site and to the waterfront, which would be consistent with Subdivision Map Act Section 66478.11, which requires that when approving a Tentative Map public access must be provided to the bay shoreline by dedication in fee or easement. In addition, dedication of easements is required to accommodate access to storm water drainage facilities and infrastructure, access for emergency vehicles, including a separate, emergency vehicle access road and easement at the current Leith Lane intersection that is designed for conversion to a second vehicle access to the project, if warranted, and vehicle and pedestrian access to the recreation and park improvements that would be accessible to the public.
5. The City has balanced the regional housing needs against the public service needs of its residents as well as available fiscal and environmental resources and concludes that adequate public services are available to the site based on existing service providers expressed ability to provide service. The proposed subdivision meets the housing needs of the City in that: a) the site is located in an urbanized area where public services are available; b) potential impacts on site environmental resources can be mitigated provided that required measures are implemented; c) the project proposes to set aside over 20% of the total residential units for low- and moderate-income households; and d) most importantly, the site represents a housing opportunity in that it is level, and site constraints and environmental resources have been identified and respected.
6. The design of the subdivision, as proposed and as conditioned, addresses solar energy needs, to the extent feasible, based on property orientation and site topography. The proposed design and orientation of the residential units and the neighborhood commercial and mixed-use buildings are appropriate for providing active and passive/natural heating or cooling opportunities, to satisfy Title 24 building code requirements. As conditioned, the project is required to comply with the City-adopted green building ordinance provisions set forth in SRMC Section 14.16.275.
7. The proposed subdivision, as conditioned, would not result in impacts to water quality or impacts to environmental resources in that appropriate mitigation measures such as the development and submittal of an Erosion and Sediment Control Plan, a dust abatement program and a Storm Water Pollution Prevention Plan (SWPPP) are required as conditions of project approval, which must be implemented before any grading or construction commences on the site. In addition, as presented on Vesting Tentative Map plan sheet C-13, the map incorporates specific water quality design measures that would be installed as part of the infrastructure to filter urban runoff, which would include, but not be limited to pervious pavers, storm separator units, bio-retention filtration catch basins and vegetated swales.

8. The design of the subdivision as proposed and conditioned, is not likely to cause substantial environmental damage, or substantial and unavoidable injury to fish, wildlife or their habitats or cause serious health problems in that: a) the Final Environmental Impact Report (FEIR) prepared for this project concludes that the site does not contain any breeding or foraging habitat for rare, endangered or special status animal species, or habitat for such species, that would be impacted by the development; and b) with the exception of Wetland E, the existing seasonal wetlands and the area contiguous to these wetlands would be preserved as a conservation area. Expansion of existing seasonal wetlands by 9,500 square feet and implementation of a wetland mitigation and management plan, as required, would establish wetland buffers and would enhance habitat area for use by wildlife.

Findings for Exceptions to Subdivision Ordinance (Title 15) Provisions

1. There are special circumstances and conditions surrounding the subject property, which warrant the approval of the exceptions. Firstly, while the subject property contains over 29 acres of relatively level upland area, the property also contains a large area of seasonal wetlands included in a conservation area, which is a significant environmental resource that requires protection by General Plan 2020 Conservation Policies CON-1 (Protection of Environmental Resources) and CON-2 (Wetland Preservation). Secondly, Neighborhood Element Policy NH-118 (Loch Lomond Marina) includes a list of uses and improvements that are recommended for development of the site, which reviewed and implemented collectively promote the preservation of the marina, preservation and improvement of neighborhood commercial use, development of housing with varying housing types, developing and improving recreation and park improvements for public use and preserving wetlands. Protection of the environmental resources and responding to the numerous land use and improvement recommendations of Policy NH-118 can only be achieved through the clustering of development on the upland portions of the site and deviation from the provisions of the Subdivision Ordinance.
2. The exceptions, as requested, are necessary for the preservation and the enjoyment of a substantial property right of the project sponsor. Specifically, the project sponsor is required to meet the goals and policies of the San Rafael General Plan 2020, which include: a) a recognition that this property is a housing opportunity site, where a variety of housing types and mix are encouraged; b) the need to preserve and maintain a full-service marina and neighborhood commercial uses; c) the need to expand and improve recreation and park facilities for public use which would serve the residents of the development and the surrounding neighborhood; d) the need to provide a street design that would facilitate traffic calming and slow driving speed, as well as separating pedestrian paths from vehicular traffic; and e) the need to protect on-site environmental resources such as the seasonal wetlands located in the eastern portion of the project site and the creation of new, expanded wetlands. Further, the granting of this exception would permit the installation of street trees within the development, rather than along the main access road, which is necessary to maintain views through the site and along the waterfront. These goals and policies cannot be achieved in the design of a mixed use project on this site without some deviation in the Subdivision Ordinance requirements and the granting of the exceptions that are requested.
3. The granting of the exceptions, as requested, will not be detrimental to the public welfare or injurious to other property in the vicinity in which the property is situated in that: a) the reduced-width road designed throughout the development have been reviewed and determined to be safe and acceptable by the City Traffic Engineer and the Fire

Department, and would promote traffic calming, which is recommended by General Plan 2020 Policy C-21 (Residential Traffic Calming) and NH-118 (Loch Lomond Marina); b) adequate lot sizes, setbacks and lot coverage would be provided for all proposed uses, particularly residential units, to ensure maximum solar exposure (light) and air to all residential units and private yard areas; c) adequate setbacks would be provided adjacent to all roadways so that vehicle sight distance would not be impaired; and d) ample sidewalks and paths are proposed throughout the residential development area, which serve the same purpose and provide safer pedestrian access than the installation of sidewalks along the parking courts. The exception to the Subdivision Ordinance drainage design requirements would promote improved filtering of urban runoff and would increase water quality, consistent with the recommendations set forth in the FEIR.

BE IT FURTHER RESOLVED, that the City Council, as part of its review and consideration of the Village at Loch Lomond Marina Development Vesting Tentative Map, approves the following exceptions to the San Rafael Subdivision Ordinance (SRMC Title 15), based on the findings cited above:

- a. Section 15.06.050 – Street Width Standards. Request to reduce the private, local streets within the planned development from the minimum required right-of-way width of 60 feet and a minimum pavement width of 40 feet to a reduced right-of-way width of 30 feet and a reduced pavement width of a minimum of 20 feet for the parking courts;
- b. Section 15.06.080(b) – Sidewalks and Walkways. Request to waive the requirement to install sidewalks along the private parking courts;
- c. Section 15.06.100 – Street Trees. Request to install some of the required street trees (one tree per four parking spaces) along pedestrian pathways and walkways in-lieu of planting along the main project streets, so as to maintain maximum views of the waterfront;
- d. Section 15.06.110(b) – Drainage. Request to permit lots to drain into common areas rather than drain directly to a private or public street, which is necessary to comply with water quality measures to treat the project runoff; and request to continue use of existing 8-inch drainage pipes and outfalls at five locations along the marina waterfront as part of the designed storm water drainage system.

BE IT FURTHER RESOLVED, that the City Council approves the Master Use Permit, Environmental and Design Review Permit and Vesting Tentative Map as amended and presented in the Development Plan, which consists of 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 subject to the following conditions, which incorporate recommended mitigation measures from the approved MMRP as amended herein:

**Master Use Permit
(UP 04-007)**

1. This Master Use Permit is approved for the continued operation of existing land uses and the establishment and operation of new land uses on Loch Lomond Marina property, located at 110 Loch Lomond Drive and Point San Pedro Road. The land area covered by this permit encompasses 131+ acres set forth in the PD Ordinance adopted for this property and the approved Development Plan (Z04-002), on file with the Department of Community Development, and presented in the following, specific land use areas:
 - a. Area A (1 & 2) - Marina and Recreation Use
 - b. Area B – Neighborhood Commercial/Mixed-Use

- c. Area C – Residential Use
- d. Area D – Conservation Area

2. This Master Use Permit authorizes the continuation of the Loch Lomond Marina and recreation uses in PD District Area A with the following uses:
 - a. Maximum of 517 marina berths and slips (wet boat storage) of which 10% (52) are authorized for permanent residency; associated ancillary uses including waste water pump-out facilities
 - b. Public boat launch
 - c. Fueling facilities and fuel storage
 - d. Marina operation support uses including harbormaster’s office, restrooms, showering and laundry facilities for marina berth tenants.
 - e. Boat and marina equipment sales, rental and repair
 - f. Marine-related retail sales (bait sales)
 - g. Marina parking and day-use vehicle + trailer parking
 - h. Restaurant and dining establishments
 - i. Supporting yacht club facilities
 - j. Recreation uses and facilities including kayak operation and launch, fishing with cleaning station, equipped play areas, pedestrian trails and paths, support restrooms and parking
 - k. Public restroom use is authorized at the entrance to the breakwater (southeast terminus of marina parking lot) but shall be removed at any time in the event the City determines that the use is not necessary or becomes a nuisance
 - l. 16 dry dock boat storage spaces in the day use vehicle + trailer parking area

3. This Master Use Permit authorizes the establishment, maintenance and operation of ground floor neighborhood commercial use (up to 22,250 square feet) and second floor residential use (up to five residential units) in PD District Area B including the following:
 - a. Grocery store and supermarket with ancillary/support office use on second floor
 - b. Retail sales including marine-related sales
 - c. Personal services
 - d. Medical office
 - e. Marina-support uses including harbormaster’s office, restrooms, showering and laundry facilities for marina berth tenants
 - f. Restaurant and dining establishment
 - g. Outdoor retail display and dining
 - h. All other land uses permitted or conditionally permitted by the NC (Neighborhood Commercial) District as set forth in SRMC Section 14.05.020 except for: animal care facilities, catering establishments, convenience markets, gasoline stations, auto repair, medical service clinics and laboratories, religious institutions, schools, rooming and boarding houses.

For grocery store, supermarket and retail sales uses, merchandise deliveries shall be limited to daytime hours (6:00am to 6:00pm).

4. This Master Use Permit authorizes the establishment, maintenance and operation of residential land use for PD District Area C.

5. This Master Use Permit authorizes the conservation and limited public access use for PD District Area D, as specified in the PD District.

6. This Master Use Permit authorizes the filling of Wetland E, a small, 278-square-foot manmade drainage ditch and wetland setbacks of less than 50 feet for Encroachment Areas 1,

2 and 3 as identified on the Development Plan, which would be mitigated by the 9,500 square-foot expansion of the larger seasonal wetlands presented in the wetland mitigation and management plan (a replacement ratio of 31:1 for wetland fill). The wetland mitigation and management plan presented with the approved Development Plan is approved in preliminary form only. Prior to the issuance of a grading or demolition permit, whichever occurs first, a detailed wetland mitigation and management plan shall be prepared and submitted to the City for review and approval in accordance with the Vesting Tentative Map (TM04-001) conditions of approval. The detailed wetland mitigation and management plan shall be subject to subsequent review and approval by the Community Development Department subject to consultation with the Bay Conservation and Development Commission (BCDC) and California Department of Fish and Game (CDFG). Any terms and conditions imposed as a result of this subsequent review shall be incorporated into this Conditional Use Permit through an amendment. The monitoring of this mitigation shall be required under the terms of this Conditional Use Permit, subject to the following:

- a. The wetland mitigation and management plan shall be monitored for a period of ten (10) years following completion of the mitigation improvements. Commencing on January 1 following the completion of the mitigation, the project sponsor shall submit an annual report prepared by a biologist, which is intended to provide the status on the mitigation effort, the success of the plans, as well as recommendations and contingency measures in the event areas of the mitigation are unsuccessful.
 - b. The annual report shall be reviewed by the Community Development Director.
(FEIR Mitigation Measures 3.7-1c).
7. This Master Use Permit is approved subject to monitoring on-site parking for marina and recreation uses and on-street parking along the Point San Pedro Road property frontage. On-site parking for the marina and recreation uses (Area A 1&2) is authorized based on peak parking demand and shall be subject to the following conditions and monitoring requirements:
- a. A total of 259 vehicle parking spaces and 27 vehicle + trailer parking spaces (35 spaces proposed) are required as presented on the approved Development Plan. The parking plan also includes and approves a 'parking reserve' (landscaping that can be converted to parking) and a 'landscape reserve' (parking that can be converted to landscaping) for future use.
 - b. Twelve (12) of the total vehicle parking spaces shall be marked and reserved for public use of the shoreline, recreation and park facilities during daytime hours (dawn to dusk). Of these 12 spaces, four (4) spaces shall be designated on the west spit, five (5) spaces shall be designated on the east spit and three (3) spaces shall be designated at the southern terminus of the marina parking lot (entrance to breakwater). Signs shall be placed at these locations designating public use of these parking spaces during the daytime hours.
 - c. The 52 liveaboard berth tenants shall be provided assigned parking at a ratio of one parking space per berth. The assigned spaces shall be distributed through the site at points closest to the access to docks.
 - d. This Use Permit approves the use of eight (8) of the 35 vehicle + trailer parking spaces in the marina day use parking lot (presented on the Development Plan) for 16 dry dock boat storage spaces rented on a month-to-month basis. Per condition 7.f. below, the dry dock boat storage shall be monitored with the marina parking and may be phased out should the demand for vehicle + trailer day use parking exceed 27 spaces.
 - e. The marina operator shall implement a valet parking program or similar parking management program for the vehicle + trailer day use parking during peak marina use days (summer holidays). The valet parking program shall be submitted to the City prior

- to the issuance of a building permit. While it is not expected that peak demand will exceed 27 vehicle + trailer spaces for marina day use, the program is required as a contingency measure. If valet parking is implemented, all parking shall be accommodated on-site.
- f. Two (2) years following completion and occupancy of the project (build-out), an updated parking study shall be prepared and submitted to the City. The updated parking study shall be prepared by a licensed Traffic Engineer approved by the City and funded by the project sponsor or the project Owners' Association to assess marina and recreation parking demand. The updated parking study shall be submitted to the Community Development Department for review and shall include the following actions:
 - 1) In the event the parking demand report finds that additional parking is recommended to meet increased demand, the City shall require implementation of the 'parking reserve.'
 - 2) In the event demand is less than the supply, the City may consider allowing the implementation of the 'landscape reserve.'
 - 3) In the event the parking demand report finds that the demand for marina day use vehicle + trailer exceeds the 27 spaces that are provided, the 16 dry dock boat storage spaces shall be considered for conversion to eight (8) vehicle + trailer spaces.
 - g. The updated parking study required in 7.f. above shall also assess the extent of on-street parking use along the Point San Pedro Road property frontage with the current Class III bicycle route (route shared with vehicle travel lane and parking lane). In the event the updated parking study determines that the on-street parking demand is low, the City may proceed with implementing a Class II bicycle lane along the entire property frontage.
 - h. If, at any time, project-generated parking is occurring on residential streets located outside the project boundary, other than on Point San Pedro Road, the Community Development Director may require: 1) modifications to enforcement activities by the Owners' Association; or 2) initiation of the updated parking study and consideration of on-site parking modifications by the City Council.
8. This Master Use Permit is approved subject to City monitoring of the main project vehicle access (Point San Pedro Road/Lochinvar Road/Loch Lomond Drive) and to determine potential conversion of the emergency vehicle access (EVA, proposed in the residential area at the present Leith Lane intersection) to a second vehicle access to the project site. The monitoring requirements and conditions are as follows:
- a. Six months following completion and occupancy of the project (build-out), the City Traffic Engineer will analyze the traffic signal operation and the internal site circulation. Based on this analysis, adjustments to the signal or on-site circulation may be recommended to ensure safety and efficiency. Such adjustments shall be made in coordination with the project sponsor or the project Owners' Association.
 - b. Four years following completion and occupancy of the project (build-out), an updated traffic study shall be prepared and submitted to the City. The updated traffic study shall be prepared by a licensed Traffic Engineer approved by the City and funded by the project sponsor or the project Owners' Association to assess the main project access to assess and report on: 1) on-site and off-site intersection operations including level of service conditions; 2) general use and potential conflicts; 3) queuing and stacking at the intersection; and 4) any potential by-pass traffic/diversions through the contiguous Loch Lomond neighborhood. If deemed necessary, the updated traffic study shall present recommendations including but not limited to opening the EVA as a second access to the project site, installing traffic calming measures in the adjacent Loch Lomond

- neighborhood, or other operational changes to the main access intersection and on-site circulation.
- c. In the event the City Traffic Engineer determines that by-pass traffic and/or diversions through the Loch Lomond neighborhood are occurring as a result of the project or current access design, acceptable traffic calming measures shall be installed within the Loch Lomond neighborhood (e.g., speed bumps or other measures to deter by-pass traffic) and the emergency vehicle access shall be converted to a second vehicle access for the project site, subject to the approval of the City Council. The design of the converted access shall be consistent with the design requirements set forth in Vesting Tentative Map TM04-001 condition 36.d.
 - d. At any time during the first four years following project occupancy, the project Owners' Association can file a request with the City to convert the emergency vehicle access to a second vehicle access for the project site, subject to the approval by the City Council.
 - e. During the first four years following project build-out, the City Traffic Engineer will observe the operation and conditions of the main access. At any time during this first four years of review, information on observations and recommendations from the City Traffic Engineer can be brought forward to the City Council for review and consideration.
 - f. The project sponsor shall post security (e.g., letter of credit, cash deposit) to fund the traffic calming measures and conversion of the EVA to a second vehicle access, which are outlined in Vesting Tentative Map TM04-001 condition 49.
9. This Master Use Permit shall be valid for a period of two years, from the date of approval by the City Council. This approval shall be null and void unless a grading or building permit is issued, whichever occurs first, or a time extension is granted.
 10. The Zoning Administrator may review and approve minor amendments to the Master Use Permit, provided that such amendments are within the use and development limits of the PD District (ZC04-002).

**Environmental and Design Review Permit
ED 04-063**

General Conditions

Community Development Department -Planning Division

1. This Environmental and Design Review Permit (ED04-063) shall be valid for two years from the date of City Council approval, and shall be null and void unless a grading permit or building permit is issued, whichever occurs first, or a time extension is granted.
2. Unless addressed as a separate condition of project approval, the project sponsor shall be responsible for implementing all mitigation measures presented in the Village at Loch Lomond Marina Final Environmental Impact Report (January 2007) and the approved Mitigation Monitoring and Reporting Program (MMRP), on file with the Department of Community Development. Consistent with the City-adopted development fees, the project sponsor is required to pay a Mitigation Monitoring Fee, which shall be charged and collected through implementation of the MMRP. Further, the City shall be reimbursed for completion of all City Transportation Engineering services provided during the environmental and project review process.

Prior to the Issuance of a Building Permit

Community Development Department - Planning Division

3. Priority Selection Process (PSP) approval for the project design, as revised shall be secured.
4. Except as conditioned herein, building techniques, materials, elevations, landscaping, infrastructure and appearance of this project, as presented for approval, shall be the same as required for the issuance of building permits. Any future additions, expansions, remodeling, etc. shall be subject to the review and approval of the Planning Division.
5. Detailed final landscape and irrigation plans for the subdivision and individual site improvements shall be prepared and submitted for Design Review Board review and approval. This landscape plan shall include the following details:
 - a. The plant palette shall be revised to increase the amount of native plant species.
 - b. Final design and details including materials, colors, plant types and pavement design for the roundabout. In order to maintain unobstructed views of the marina and Bay, a sculpture and/or public art is not approved for the center of the roundabout.
 - c. Street trees shall be planted at a minimum size of 24-inch box. The selected tree species shall be native and shall be approved by the City. All trees planted within landscape islands proposed throughout the parking areas shall be sited so that tree trunks do not obstruct access to vehicles.
 - d. The existing, native oak trees located within the wetland buffer setback and within Area D (Conservation area) of the Development Plan shall be preserved and protected, with the exception of Tree Nos. 43, 44, 45 (Coast live oaks) and No. 73 (eucalyptus) designated on the tree survey. Tree Nos. 43, 44 and 45 shall be replaced at a 3:1 ratio (nine trees) with Coast live oak species planted at a 24-inch box size (FEIR Mitigation Measure 3.7-12).
 - e. Tree No. 28 (Canary Island date palm) designated on the tree survey shall be transplanted to another location on the project site that is suitable for this specimen tree.
 - f. Tree Nos. 32, 33 and 34 (Italian stone pine) designated on the tree survey shall be preserved and protected.
 - g. The final plans shall include tree protection measures (chain link fence) that are to be installed around all trees that are to be preserved (FEIR Mitigation Measure 3.7-12).
 - h. Decorative pavement shall be installed along parking courts and at internal street intersections, as presented on the project plans. The details of the pavement material and color shall be submitted with the plans. Where feasible, decorative pavement shall be of a porous or pervious design/material to provide additional filtering of water quality from project runoff.
 - i. All private yard fencing for residences shall be consistent with the design and material specifications presented on plan Sheets L-5.2, L.6-4 and L.6-5. All fencing along the Point San Pedro Road frontage shall be limited to the 3-foot high, picket fence, specified on plan Sheets L.6-4 and L.6-5 of the preliminary landscape plan. The six-foot-high, solid wood fences proposed along this public road frontage for the one-story cottages (Units/Lots 1 through 7) are not permitted.
 - j. A six-foot high, solid wall (constructed with materials and painted to match the one-story commercial building) shall be placed in the landscape area located between the neighborhood commercial building loading area and the marina day use parking lot. The purpose of this fence is to screen the loading/delivery area. This fence shall be designed to be compatible with the architecture of the neighborhood commercial building. Similarly, a six-foot high, black vinyl-clad wire fence shall be installed along the western property boundary, commencing at the northern property line and terminating at the southern building edge of the marina boat repair/maintenance building to permit

- pedestrian access to the adjacent San Pedro Cove open space. A native plant shall be planted at the base of the fence to promote screening.
- k. The plan shall include the location, design and selected materials for all separate trash enclosures for the neighborhood commercial, mixed-use and marina areas. Enclosures shall be sited so that they are easily accessible but screened from view as much as possible.
 - l. Landscaping shall not block or obstruct the view of any door, window, or lighting fixture. Future growth of landscaping must be taken into consideration.
 - m. Barrier or thorny plants may be added to those locations desired by applicant to deter access to windows or other areas.
 - n. The landscaping plan shall be reviewed and approved by the Marin Municipal Water District prior to the issuance of building permits.
 - o. A bicycle rack shall be provided at the entrance to the southern neighborhood commercial building or near the public plaza and sized to accommodate 10 bicycles.
6. Detailed, final landscape and irrigation plans shall be prepared for the recreation and park areas for Area A. As the recreation and park areas are to be accessible to and are for public use, final design of landscaping and equipment shall be approved by the City Park and Recreation Commission. This plan shall include the following, which shall be consistent with City park improvement standards:
- a. Final design for the public restroom on the east spit and the temporary public restroom and fish cleaning station at the southeast terminus of the marina parking lot.
 - b. Final design and specifications for all park furniture, equipment and accessories. As required by condition 5.b. above, no sculpture/public art or furniture is approved for the center of the roundabout located adjacent to the public plaza.
 - c. Two bicycle parking racks shall be provided, one placed at the east jetty/spit and one to be placed at the entrance of the breakwater. Each rack shall be sized to accommodate parking for five (5) bicycles.
 - d. The final lighting plan for the park area shall specify the location, number and type of lighting standards. The MTR lighting standard proposed along the marina boardwalk shall be replaced with the hooded street light standard that is proposed for project streets. This lighting shall comply with the provisions of condition 8, below.
 - e. The pedestrian path along the breakwater shall be six (6) feet in width and designed to comply with ADA standards. All existing rebar in the breakwater rip rap shall be removed to the low water line.
7. The architectural plans submitted for the issuance of building permits shall be reviewed by the Design Review Board to ensure that the following revisions and/or details have been adequately addressed:
- a. The final architectural plans shall be consistent with the four (4), approved residential unit types, which are described as follows:
 - 1) Detached single-family residential homes (House Plans A, B, C and D)
 - 2) Detached single-family cottage homes (Cottage Plans A- single-story cottage, B- downsized single-story cottage and C- two-story cottage)
 - 3) Attached town homes (Town home Plans A, B, C and D)
 - 4) Residential flats- mixed-use building (Flat Plans A-E)
 - b. Four-sided architecture shall be required for all residential unit types.
 - c. A detailed roof plan shall be prepared for all structures demonstrating how roof top mechanical equipment is to be screened from view. For the residential units, gable vents and roof vents shall be used to fully screen or conceal roof vents and flues.

- d. For all buildings designed with a masonry (brick or stone) base, this material shall extend to grade so that the concrete foundation is concealed.
 - e. The final architectural plans shall be accompanied by the final building materials and colors for all buildings.
 - f. All glazing/windows shall be non-reflective and/or tinted to minimize potential daytime glare impacts (FEIR Mitigation Measure 3.2-5b).
 - e. Detached, single-family House Plan D is approved for the four (4), western marina front lots (Lots 29, 30, 33 and 34 as shown on the Vesting Tentative Map), with the final design requiring the approval of the Design Review Board. For these homes, the highest roof ridge/peak (north/south gable) shall not exceed 24'6" measured from finished grade, as depicted on the approved plans. This height limit is intended to reduce overall building heights and improve north views of the San Pedro Ridge from the marina green and boardwalk.
 - f. Town home Plans C and D are approved for the two 5-unit town home buildings immediately east of the project entrance (Lots 35-44 as shown on the Vesting Tentative Map) with the final design requiring approval by the Design Review Board.
 - g. One-story Cottage Plan B (downsized) is conceptually approved but the final floor plan and elevations shall be approved by the Design Review Board. Cottage Plan B is approved for Lots 3 and 4 (as shown on the Vesting Tentative Map).
8. A final exterior lighting plan shall be submitted for review and approval by the Design Review Board, which shall include the following:
- a. Sufficient exterior lighting to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type (lighting standard) and placement of lighting shall be to the satisfaction of the Police Department and Department of Public Works.
 - b. All areas of the Project site.
 - c. Vandal resistant garden and exterior lighting.
 - d. A lighting standard that is shielded to direct illumination downward and to limit casting light and glare on adjacent properties.
 - e. Exterior street and parking lot lighting on a master photoelectric cell, which is set to operate during hours of darkness.
 - f. A minimum of one foot-candle at ground level overlap provided in all exterior doorways and vehicle parking areas, and on outdoor pedestrian walkways presented on a photometric plan.
 - g. Exterior lighting for residential dwellings within 100 feet of the eastern wetlands shall not exceed 10 foot-candle and should be mounted low to reduce glare into the adjacent sensitive areas.
 - h. The plan shall include a note requiring a site inspection 30 days following installation and operation of the lighting for each phase of the development. The post construction inspection by the City shall allow adjustments in the direction or intensity of the lighting, if necessary.
 - i. Prior to issuance of Building Permits, the Project Proponent shall submit a photometric analysis to the Design Review Board for review and approval.
 - j. The Police Department shall review the lighting plan to ensure that adequate lighting is provided along streets, in parking lots, at building entrances, pedestrian walkways, public spaces, and recreational areas in the project.

(FEIR Mitigation Measure 3.2-5a and Mitigation Measure 3.10-2)

9. A final acoustical analysis shall be prepared by a qualified acoustical consultant and submitted to the City with the building permit application. The final acoustical analysis shall address the following:
 - a. Appropriate noise insulation measures for all residential units to ensure that interior noise levels do not exceed 40DNL in bedrooms and 45 DNL in all other rooms.
 - b. Appropriate noise attenuation measures for the residential units located within 220 feet of the centerline of Point San Pedro Road. In order to meet the California Building Code acoustical design requirements and the City's interior noise standards, residents must have the option to keep the windows permanently closed, requiring that each residential unit be equipped with air conditioning for ventilation, or an equally effective, alternate ventilation system that does not compromise the acoustical integrity of the building shell.
 - c. Verification that noise levels for the exterior, private backyard areas of the residential units do not exceed the City noise standard (65 dBA for mixed-use development projects and 66 dBA projected per San Rafael General Plan 2020 Policy N-2).
 - d. Appropriate measures for placement and design of all electrical and mechanical equipment (i.e., ventilation and air conditioning units) for the commercial buildings to ensure that they are sited as far away as possible from residential areas. Measures for insulation shall include proper selection and sizing of equipment, installation of equipment with proper acoustical shielding, and incorporating the use of parapets into the building design.

The building plans shall incorporate the details and specifications recommended in the final acoustical analysis and the acoustical consultant shall provide written verification that the noise attenuation measures have been incorporated into the plans. (FEIR Mitigation Measures 3.6-2 and 3.6-3).

10. The building plans shall comply with the green building ordinance provisions set forth in SRMC Section 14.16.275.
11. All required school impact fees shall be paid and verification of payment shall be submitted to City of San Rafael Building Division prior to issuance of building permit. In addition, the project sponsor shall pay City-adopted Development Impact Fees based on the fee schedule in-place as of the date of this action (July 2007).
12. A Level "B" soils report shall be submitted with the application for a building permit(s). The design of all buildings shall comply with the recommendations presented in the geotechnical reports prepared for the project site and the requirements of subsequent geotechnical review, in addition to all applicable local, state, and federal policies, codes, and regulations, including the latest seismic safety standards (FEIR Mitigation Measure 3.9-3a).
13. An engineered site plan showing all existing and proposed site conditions shall be submitted with the application for a building permit.

14. Prior to the issuance of building permits, the applicant shall provide a grading report to the City for their approval and verification that all Building envelopes, which are the areas demarcated by the edges of the proposed building plus a five-foot radius, are underlain by a minimum of six feet of competent soil. Should the applicant choose alternative construction techniques, such as deeper foundations, rather than construct pads underlain by a minimum of six feet of competent soil, the applicant shall provide a subsequent geotechnical report prepared by a certified geotechnical engineer or engineering geologist that documents the expansion indices of proposed Building areas. Accordingly, the application for Building Permits shall clearly identify the documented expansion indices and propose foundation designs appropriate for those expansion indices as suggested by the UBC (FEIR Mitigation Measure 3.9-6d).
15. For the neighborhood commercial and mixed-use buildings the use of drilled piers or a mat-type foundation is required. However, a pile-driven foundation may be permitted for the southern, neighborhood commercial building only, provided that noise attenuation measures are implemented to ensure that noise limits (90 dBA) are not exceeded at the closest noise receptor (estimated at 87 dBA at the closest residence north of Point San Pedro Road). Since the public sidewalk along the south side of Point San Pedro Road is defined by the City of San Rafael Noise Ordinance as a noise receptor, where noise levels from pile driving may exceed 90 dBA, the public sidewalk shall be temporarily closed through the duration of pile driving activities and a temporary solid wood construction fence shall be installed along the west end of the Point San Pedro Road property frontage. For driven piers, sonic or vibratory pile drivers shall be used instead of impact pile drivers, if feasible. If sonic or vibratory pile drivers are not feasible, acoustical enclosures shall be provided as necessary to ensure that pile-driving noise does not exceed speech interference criterion at the closest sensitive receptor. Engine and pneumatic exhaust controls on pile drivers shall be required as necessary to ensure that exhaust noise from pile driver engines is minimized to the extent feasible. Where feasible, pile holes shall be pre-drilled to reduce potential noise and vibration impacts (FEIR Mitigation Measure 3.6-1d).
16. Pile driving activities for improvements to the yacht club building shall be subject to the following requirements:
 - a. Pile driving shall be conducted only within one of the work windows established by NOAA and CDFG to avoid impacts on protected fish species. Construction of the proposed Project in these biologically sensitive areas would occur between the work windows of 7:00 AM and 6:00 PM Monday through Friday, and only during the NOAA and CDFG approved months of August to November. Prior to the issuance of building permits for the yacht club, the Project Proponent shall demonstrate to the satisfaction of the City that proposed pile-driving techniques would not generate noise levels above 180 decibels (FEIR Mitigation Measure 3.7-3a).
 - b. If pile driving is to occur outside the work windows specified in 16a. above, the project sponsor shall utilize pile driving techniques that do not generate acoustical levels above 180 decibels, which is below the threshold of impact to migratory fish (FEIR Mitigation Measure 3.7-3b).

Public Works Department

17. See Vesting Tentative Map (TM04-001) for specific conditions relating to site preparation, grading and infrastructure.

18. The project site is located in the Special Flood Hazard Zone designated as Zone A1 in the Flood Insurance Rate Map, where the minimum Base Flood Elevation (BFE) is +6.00' (NGVD 1929 datum). The City recommends that the lowest floor elevation of building after 30 year settlement be at minimum +7.00' (NGVD 1929 datum) to allow for 12" freeboard or higher. The first floor building elevations presented on the Vesting Tentative Map (TM 04-001) are +8.0 or more, which shall be approved for this project. Certification of this elevation by a registered engineer or surveyor shall be provided prior to framing of the building on the lots. Development must comply with "Title 18 - Protection of Flood Hazard Areas" of the City of San Rafael Municipal Code. See Vesting Tentative Map (TM 04-001) for additional flood control conditions related to site grading and drainage.

Fire Department

19. Based on Uniform Building Code (UBC) or Fire Code requirements, an automatic fire sprinkler system shall be installed in all buildings in conformance with NFPA Standard 13, 13D and 13R.
20. A permit application shall be submitted to the Fire Prevention Bureau with two sets of plans for review prior to installation of all automatic and fixed fire extinguishing and detection systems. Specification sheets for each type of device shall also be submitted for review.
21. All separate trash enclosures or trash disposal areas sited next to buildings or openings in any buildings shall be equipped with a fire sprinkler head. All trash enclosure areas shall be well lit and shall be equipped with a locking device.
22. Fire retardant roof covering shall be required with a minimum Class "A" listing.
23. Wood burning fireplaces are prohibited.
24. UL/SFM smoke detectors and openable bedroom windows shall be installed, conforming to the Uniform Building Code.
25. An automatic fire extinguishing system shall be installed in the neighborhood commercial/grocery store building, the mixed-use building, the restaurant and the yacht club buildings, which is required for all hood, duct, plenum and cooking surfaces.

Police Department

26. The building plans shall incorporate the following door and opening security requirements and specifications:
- a. Exterior doors that swing outward shall have non-removable hinge pins.
 - b. In-swinging exterior doors shall have rabbeted jambs.
 - c. Glass sliding doors shall have a secondary type locking device to the satisfaction of the Police Department. The secondary lock shall be a dead-bolt lock and shall be no less than one-eighth inch (1/8") in thickness and shall have a minimum hardened steel throw of one-half inch (1/2").
 - d. Front doors shall have a front door viewer that provides a minimum of 180 degrees peripheral vision. All delivery doors proposed for the neighborhood commercial/grocery store building, the mixed-use building, the restaurant and the yacht club buildings shall have a viewer that provides a minimum of 180 degrees peripheral vision.
 - e. All exposed roof vents and ducts shall be grated or constructed of an impact resistant material to the satisfaction of the Police Department. Skylights shall be secured and

- hatch openings shall be burglary-resistant. Glazing shall be of a burglary-resistant glass or glass-like material.
- f. All exterior man doors shall be of solid core construction with a minimum thickness of one and three-fourths inches (1-3/4") or with panels not less than nine-sixteenths inches (9/16") thick. Doors leading from the garage areas to the interior of the single family residences are included in this requirement. Exterior man doors (including doors leading from garage areas into the private residences) shall have dead-locking latch device with a minimum throw of one-half inch (1/2"). A secondary lock is required and shall be a dead-bolt lock with a cylinder guard and a hardened steel throw a minimum of one-inch (1") long. Both locking mechanisms shall be keyed the same.
 - g. Both locking mechanisms shall be interconnected so that both may be disengaged by turning the door knob from inside. Exterior jambs for doors shall be so constructed or protected so as to prevent violation of the function of the strike plate from outside. The strike plate shall be secured to the jamb by a minimum of two screws, which must penetrate into the solid backing beyond the jamb.
 - h. All framed glass doors shall be set in metal door jambs and shall have a dead-bolt lock with a cylinder guard and a hardened steel throw that is a minimum of one inch (1") long.
 - i. All glass on exterior doors and/or any window within 40 inches of an exterior door shall be break resistant glass or glass-like materials to the satisfaction of the Police Department.
 - j. Vehicular garage doors shall have either a single locking device attached near the center of the door designed to bolt into the concrete floor or an interior hasp/lock combination affixed to both sides of the door/door frame.
 - k. All windows within 12 feet of the ground level shall have a secondary lock mounted to the frame of the window. The lock shall have a hardened steel throw of one-half inch (1/2") minimum length.
27. Permanently fixed ladders leading to roofs shall be fully enclosed with sheet metal to a height of ten (10) feet. This covering shall be locked against the ladder with a casehardened hasp secured with non-removable screws or bolts. If a padlock is used, it shall have a hardened steel shackle, locking at both heel and toe, and have a minimum of 5 pin tumbler operation.
28. Perimeter walls, fences, trash storage areas, etc., shall be designed to prevent access to the roof or balconies.
29. Any alternative materials or methods of construction shall be reviewed with the Crime Prevention Officer before installation.
30. All residential units shall be designed to accommodate installation of a security alarm system in the event an alarm is required by the Police Department.

Marin Municipal Water District (MMWD)

31. A copy of the building permit shall be submitted to MMWD with an application for service. This project is subject to a High Pressure Water Service Application.
32. All landscape and irrigation plans must be designed in accordance with the most current Marin Municipal Water District (MMWD) regulations set forth in MMWD Ordinance #385. Prior to providing water service for new landscape areas, or improved or modified landscape areas, MMWD must review and approve the working drawings for planting and irrigation system.

During Construction

Community Development Department – Building Division

33. As part of the building foundation construction process, a certified geotechnical engineer shall provide observations and testing services paid for by the project sponsor, to confirm that the surcharge material is appropriately placed and settled. The purpose of this requirement is to: a) ensure that the conditions are similar to those assumed for design in the geotechnical investigation; and b) to verify that construction and grading are performed in accordance with the project plans (FEIR Mitigation Measure 3.9-3c).
34. The Project contractor shall follow the seismic requirements stipulated in the Uniform Building Code (UBC) for Seismic Zone 4, the zone of highest seismic risk. These requirements are listed in Table 3.9-1, 1997 UBC Site Categorization and Site Coefficients for the Project Site. (FEIR Mitigation Measure 3.9-2).

Public Works Department

35. On-site soil proposed for reuse in building areas and for landscaping shall be free of organic matter and rocks or hard fragments larger than four inches (4”) in diameter and shall be observed and tested by the soil engineer prior to placement.

Fire Department

36. All roadways shall be installed prior to building framing. Roadways shall be at least 20 feet wide, unobstructed, and shall have an all-weather surface that is capable of supporting 40,000 pounds of gross vehicle weight.
37. All meetings with, or inspections by the Fire Department shall require a minimum 24-hour advance appointment.
38. Should asbestos be determined to be present within the existing structures of the project site, the project sponsor or contractor shall be required to comply with BAAQMD Regulation II, Rule 2, Hazardous Materials; Asbestos Demolition, Renovation and Manufacturing during the demolition process or any Building renovation process (FEIR Mitigation Measure 3.5-1d).

Prior to the Completion of a Final Inspection for Building Occupancy

Community Development Department – Planning Division

39. All landscaping and irrigation for the subdivision improvements shall be installed prior to building occupancy. The City may agree to accept a bond for the portion of landscaping improvements not completed. In the event that a bond is posted for a portion of the site landscaping, it shall cover the amount estimated for completing the landscaping. All incomplete areas proposed for landscaping must be covered with bark or a substitute material approved by the Planning Division prior to occupancy.
40. The project sponsor shall be responsible for providing continual maintenance of landscaping and irrigation in all common landscape areas and the recreation and park areas intended for public use and the conservation area (seasonal wetlands) for a period of two years from the date of completion or until a Mello-Roos District (see Vesting Tentative Map TM04-001 conditions of approval) is formed, whichever occurs first. During this time, the project sponsor shall be responsible for replacing all dead plantings and complete all repairs to the irrigation system, if deemed necessary. A copy of the landscape and irrigation maintenance

contract with a professional landscaping service shall be submitted to the City to ensure that this service is performed through the duration of this initial planting period.

41. The landscape architect shall certify, in writing, that the landscaping has been installed in accordance with all aspects of the approved landscape plans, that the irrigation has been installed and been tested for timing and function, and all plants including street trees are healthy. A City inspection shall be completed once the landscaping and irrigation have been installed.
42. All wetland mitigation improvements proposed and required for the eastern portion of the site shall be completed and approved by the City prior to the occupancy of the first phase of development. See Vesting Tentative Map conditions of approval for required plans, plan details and monitoring (TM04-001).

Community Development Department – Building Division

43. All earthwork and foundation work shall be performed under the direction of the project soils engineer and a final construction report shall be submitted prior to approval of a final inspection.

Fire Department

44. The alarms from fire detection systems and commercial fire sprinkler systems shall be monitored by a UL Central Station Company approved by the San Rafael Fire Department and be issued a UL serially numbered certificate for Central Station Fire Alarms. Fire alarms shall comply with NFPA-72.

Police Department

45. The address numbers shall be displayed in a prominent location on the street side of the property in such a position that the number is easily visible to approaching emergency vehicles. The numbers shall be no less than 8 inches in height and shall be of a contrasting color to the background to which they are attached. The street address numbers shall be illuminated during darkness. These addresses shall be posted conforming to Fire Prevention Standards 205 and 205A.
46. The Crime Prevention Officer shall be allowed to inspect and approve the construction prior to occupancy.

Marin Municipal Water District

47. The foundations for structures shall be completed within 120 days of the date of application with MMWD.
48. If required, backflow prevention requirements must be met with measures installed and inspected by MMWD prior to occupancy.

Post-Construction Monitoring

Community Development Department- Planning Division

49. As each section of the development is completed and occupancies are granted, exterior lighting shall be inspected following installation. Inspections shall occur thirty (30) days following the installation and full operation of the on-site lighting (exterior and street lighting). If, as a result of the inspection, adjustments in the intensity, direction or amount of

lighting are necessary, the project sponsor shall be responsible for completing these adjustments.

**Vesting Tentative Map
TM 04-001**

General Condition

1. Unless addressed as a separate condition of project approval, the project sponsor shall be responsible for implementing all mitigation measures presented in the Village at Loch Lomond Marina Final Environmental Impact Report (January 2007) and the approved Mitigation Monitoring and Reporting Program (MMRP), on file with the Department of Community Development. Consistent with the City-adopted development fees, the project sponsor is required to pay a Mitigation Monitoring Fee, which shall be charged and collected through implementation of the MMRP. Further, the City shall be reimbursed for completion of all City Transportation Engineering services provided during the environmental and project review process.
2. The project sponsor shall file for and secure approvals for annexation to the San Rafael Sanitation District (annexation to service area).

Prior to the Issuance of a Grading Permit for Subdivision Improvements (except filling for surcharge) if Issued Prior to Recordation of the Final Map

Community Development Department – Planning Division

3. The Vesting Tentative Map (TM04-001) shall be initially valid for a period of two (2) years from the date of City Council approval, and shall become null and void unless a Final Map has been recorded or a time extension is granted. As the site filling and surcharge process is timely and is the first phase of construction, this activity can proceed prior to the issuance of a grading permit for subdivision improvements, but must comply with all of the following conditions listed under this milestone, except conditions nos. 14, 18, 19, 34, 36 and 37.
4. The project sponsor shall secure all required approvals and/or permits from other regulatory agencies including, but not limited to the Bay Conservation and Development Commission (BCDC), Regional Water Quality Control Board (RWQCB) and US Army Corps of Engineers. Proof of permit issuance or approval shall be submitted to the City.
5. Consistent with AB18, the Federated Indians of Graton Rancheria (Federated Indians) have recommended site monitoring during the grading phase of this project. The project sponsor shall submit proof of a written agreement with the Federated Indians setting forth the agreed monitoring time frame and requirements.
6. A qualified archaeologist shall be retained by the project sponsor to train the construction crew on mechanisms used to identify cultural resources. If buried cultural resources (such as chipped or ground stone tools, historic debris, building foundations, or nonhuman bone) are discovered during ground-disturbing activities, the construction contractor shall stop work in that area and within 100 feet of the find until a qualified archaeologist can assess the significance of the find and, if necessary, develop appropriate treatment measures in consultation with the City of San Rafael. Treatment measures shall include development of avoidance strategies, capping with fill material, or mitigation of impacts through data recovery programs such as excavation or detailed documentation (FEIR Mitigation Measure 3.12-1).

7. Pre-construction bird nesting/breeding surveys shall be conducted on and within a 100-foot radius of the project site by a qualified biologist hired by the project sponsor and approved by the City. The survey results shall be submitted to the City. In the event no nesting birds are present during the survey, no buffer is required. If nesting birds are present, a 50-foot buffer shall be established and maintained throughout the breeding season. Active nests of migratory birds shall be subject to periodic inspection by the qualified biologist. A 50-foot buffer shall also be established around any San Pablo song sparrow nesting colony or salt marsh yellowthroat nest found. These buffers shall remain in effect until the young have fledged. The pre-construction survey is not required if vegetation removal is initiated during the non-breeding season (FEIR Mitigation Measure 3.7-1b).
8. All planned vegetation removal within the project grading footprint, shall occur during the non-breeding season only, which is September through February. However, if through the completion of pre-construction bird nesting/breeding surveys (required by condition 7 above) it is determined that there is no indication of bird breeding on the project site, vegetation removal can occur during the breeding season (FEIR Mitigation Measure 3.7-1a).
9. A final wetland mitigation and management plan shall be prepared by a professional experienced in wetland restoration/creation and submitted with the Final Map and subdivision improvement plans. The plan shall include the following components and requirements:
 - a. A detailed survey and accurate mapping of the geographic areas that are to be created as new wetland.
 - b. The plan shall be prepared with the understanding that the wetlands are to function and be maintained as seasonal, meaning the east shore levee is to remain and will not be breached for tidal action, as recommended by the California Department of Fish and Game.
 - c. A total of 9,500 square feet of expanded, seasonal wetlands shall occur in the eastern portion of the site, between and bordering the two, large seasonal wetlands. Following excavation, they shall be seeded with appropriate native plants and then left to establish naturally.
 - d. Detailed plans shall be prepared to include grading, drainage/hydrologic and planting specifications. The plans shall include specifications for fencing around the perimeter of the wetland area. The fencing shall be a three to four-foot high black vinyl-clad fence, which would discourage trespassing.
 - e. Detailed plans and specification for required installation of wildlife interpretive signs informing visitors as to the purpose of the conservation area and the limitations on use of this area.
 - f. The wetland buffer design shall include the installation of a protective vinyl-clad fence and vegetative screening to reduce the potential for wildlife disturbance by humans, dogs, and cats. The vinyl fence shall be constructed around the perimeter of the seasonal wetland to protect these areas. The vinyl fence shall be constructed in accordance with the existing wetland setbacks and encroachments (FEIR Mitigation Measure 3.7-8b).
 - g. Fencing and vegetative screening shall be designed to reduce potential impacts on birds using the seasonal habitat. Vegetative screening shall be capable of attaining six feet in height in order to provide the most effective visual barrier. Fencing and screening shall be installed along the eastern edge of the proposed pedestrian nature trail from Point San Pedro Road to the parking lot just southwest of the existing seasonal wetlands. The fencing and screening can be a combination of native vegetation and physical barriers. The fencing and screening shall extend along the western and southern boundaries of the

seasonal wetlands to just north of the eastern arm of the breakwater (FEIR Mitigation Measure 3.7-8b).

- h. The viewing platform proposed between the two larger seasonal wetlands shall be designed and sited to terminate close to the marina parking lot and the pedestrian path proposed to extend from this platform to east shore levee shall be eliminated from the plan.
- i. As recommended by the California Department of Fish and Game, pedestrian access along the existing east shore levee (which separate the seasonal wetlands from tidelands) shall be prohibited through the placement of barriers at access points and/or planting of dense native wetland buffer shrubs along the top of the levees (FEIR Mitigation Measure 3.7-8b).
- j. The program shall include a ten-year monitoring plan (FEIR Mitigation Measure 3.7-1c). The project sponsor shall be responsible for monitoring the program for the first five years to ensure that the wetland is acceptably established, self-maintaining and functioning as intended. After the first five years, this responsibility shall be held with the Owners' Association. Annual monitoring reports shall be prepared by a qualified biologist hired by the project sponsor or Owners' Association summarizing the success of the mitigation plan. See Use Permit conditions of approval for on-going monitoring requirements (UP04-007).

Prior to the approval of the plan, the City shall forward the final plan to the CDFG and BCDC for review and comment (FEIR Mitigation Measure 3.7-1c).

- 10. A detailed tree replanting and tree protection plan shall be prepared by a professional biologist or arborist. The plan shall be submitted with the subdivision improvement plans and shall include the following components and requirements:
 - a. A detailed tree survey and accurate mapping of all existing trees with trunk diameters of 6 inches or greater that are within the property boundary or area of grading.
 - b. As required by conditions of approval for ED04-063, the existing, native oak trees located within the wetland buffer setback and within Parcel V, Area D (Conservation area) of the Development Plan shall be preserved and protected, with the exception of Tree Nos. 43, 44, 45 (Coast live oaks) and 73 (eucalyptus) designated on the tree survey. Tree Nos. 43, 44 and 45 shall be replaced at a 3:1 ratio (nine trees) with Coast live oak species planted at a 24-inch box size (FEIR Mitigation Measure 3.7-12).
 - c. Tree No. 28 (Canary Island date palm) designated on the tree survey shall be transplanted to another location on the project site that is suitable for this specimen tree.
 - d. Tree Nos. 32, 33 and 34 (Italian stone pine) shall be preserved and protected.
 - e. For trees to be preserved, the program shall include specifications and protection measures to be implemented during grading and construction (FEIR Mitigation Measure 3.7-12). The measures shall ensure that all construction activities (e.g., grading, filling, paving, etc.) shall occur outside the drip line of all trees to be protected and preserved. The drip line is defined as the outside edge of the tree canopy. Temporary protective fencing (chain link) shall be placed at the drip line around protected trees. The fencing shall be maintained through the construction period.
 - f. The replanting program shall include a drip irrigation system for replanted areas. The system shall be designed so that it can be abandoned, once tree growth has been established.
- 11. All breakwater repair work proposed below the mean high water line shall be conducted during a low tide. Both breakwater repair and yacht club piling replacement work shall be undertaken during the season when migratory fish are absent or, in the case of some salmon species, when only adults are present (i.e., between early August and early November). All

grading and building permits issued by the City for work in this regard shall reflect these restrictions. Implementation of these provisions by the Project Proponent shall be subject to periodic inspection by the City (FEIR Mitigation Measure 3.7-3a).

12. All construction and grading work below the mean high water line shall be conducted only at low tide and only during June through October (summer) to avoid disturbing waterfowl during winter foraging periods. All grading and Building Permits issued by the City shall illustrate these restrictions. Work in this regard shall be subject to periodic inspections by the City (FEIR Mitigation Measure 3.7-4).

Public Works Department

13. A certified geotechnical engineer shall be retained by the project sponsor to evaluate the final Project plans for conformance with the recommendations of the geotechnical investigations prepared for the FEIR. A final design-level geotechnical investigation shall be prepared to develop specific recommendations for the proposed surcharge program that will minimize the effects that the construction activities (including surcharge program, fill placement, and Building loads) will have on the stability of the supporting soils and nearby shoreline slopes. The final geotechnical investigation shall include the following:
 - a. Soils used as surcharge or permanent fill shall be placed in a controlled manner. The placement of the soils shall be limited to a maximum of eight-feet in height during the surcharge process. The pore pressures will be monitored by the Geotechnical Engineer during the fill placement and surcharge period, and subsequent filling shall not be allowed until the Geotechnical Engineer concludes that the pore pressures have dissipated sufficiently.
 - b. The fill soils used during the surcharge program shall be placed at a maximum slope of 3:1 (horizontal: vertical) extending from the top of the marina slope.
 - c. A site-specific assessment of slope stability shall be completed for the marina shoreline slopes under the influence of stockpile loading. The height and configuration of stockpiles placed within 50 feet of the shoreline shall be limited such that a static factor of safety of 1.5 or greater is demonstrated by limit equilibrium slope stability analyses. All stockpiling within 50 feet of the shoreline shall be done under the supervision of the Geotechnical Engineer or his representative.
 - d. A site-specific assessment of slope stability shall be completed for the marina shoreline slopes under the influence of heavy construction equipment. The size of equipment and the operating procedures shall be limited such that a static factor of safety of 1.5 or greater is demonstrated by limit equilibrium slope stability analyses. All use of heavy construction equipment within 40 feet of the shoreline shall be done under the supervision of the Geotechnical Engineer or his representative.
 - e. The final project slopes shall be no steeper than 3:1 and the hinge point of permanent fill slopes shall be a minimum of 60 feet away from the top of the marina shoreline slopes, unless site-specific slope stability evaluations demonstrate a static factor of safety of 1.5 or greater.
 - f. Site-specific analyses shall be performed for any fill materials in excess of one foot thick placed within 30 feet of the top of the marina shoreline slopes, including the harbor peninsulas and jetties. The analyses shall demonstrate that the static factor of safety against slope instability is 1.5 or greater. The analyses shall also include an evaluation of the expected amount and rate of settlement.
 - g. Buildings constructed on shallow foundations shall have a minimum setback of 60 feet from the top of the marina shoreline slopes.
 - h. In addition, during surcharging and grading activities, the geotechnical engineer shall provide regular monitoring, inspection and testing services to verify that the conditions

are similar to those assumed for the project design, that the construction activities are being performed in accordance with the project plans and specifications, and that the performance of the supporting soils and nearby marina shoreline slopes are within acceptable limits. All plans, reports, monitoring, inspection, and testing for the proposed Project will be reviewed by an independent Geotechnical Engineer and/or Engineering Geologist retained by the City (at the expense of the project sponsor). This third party consultant will review all plans, reports, monitoring, inspection, and testing data prior to appropriate approvals and/or certifications. A letter report summarizing findings and recommendations shall be submitted by the geotechnical engineer to the City Engineer for review and approval, as well as incorporation into grading plans.

- i. The third party geotechnical engineer retained by the City shall evaluate sub grade soils for the extent of their expansive potential. For areas found to contain soft, potentially expansive clays—and in areas where excavation activities extend into the underlying bay mud—the soil shall be removed (i.e., over excavated) and/or stabilized prior to the placement and compaction of fill. Stabilization techniques include, but are not limited to, the placement of 18 inches of ½-inch to ¾-inch crushed rock over stabilization fabric (such as Mirafi 500X or equivalent), placement of larger, angular stabilization rock (1-inch to 3-inch, clean) and use of chemical treatments such as lime to reduce the soil's expansive potential. In addition, Building construction alternatives, such as the use of alternative foundation types (i.e., post-tension, piles, etc.) versus end-bearing foundations, shall be considered and implemented where appropriate. Final techniques shall be (a) developed by a certified geotechnical engineer or engineering geologist and (b) reviewed and approved by the City prior to issuance of a Grading Permit.

(FEIR Mitigation Measure 3.9-3a, Mitigation Measure 3.9-4 and Mitigation Measure 3.9-6a).

14. The subdivision improvement plans shall be prepared to meet all requirements set forth for Final Map filing, as set forth in SRMC Title 15 (Subdivisions) as amended herein, and shall include the following, which incorporate the sanitary sewer, street and traffic and utility plans:
 - a. The improvement plans shall be prepared on a paper size of 24" X 36."
 - b. The engineered plans shall show all existing and proposed site improvements and shall conform to the preliminary [improvement] plans submitted and approved with the Vesting Tentative Map.
 - c. The jurisdictional boundaries of the Bay Conservation and Development Commission (BCDC), US Army Corps of Engineers, the wetland area and the wetland setback shall be shown on the improvement plans.
 - d. The improvement drawing shall show the location of existing and proposed sanitary sewers facilities.
 - e. All sanitary sewers shall be PVC, Type C900, and design with flexible, water tight joints to accommodate predicted 30 years settlement.
 - f. All sanitary sewers within the development shall remain private unless otherwise dedicated and accepted by the District.
 - g. The gradient of all gravity sanitary sewers shall be designed to accommodate predicted settlements. The improvement plans shall show profiles and grades before and after settlement.
 - h. The sanitary sewer shall be designed, installed and tested in accordance with the San Rafael Sanitation District specifications and drawing.
 - i. All sanitary sewer and facilities must be designed to be in compliance with the plans and specifications of the San Rafael Sanitation District.

- j. The improvement plans shall show vertical and horizontal alignments of roadway. The improvement plans shall show profiles and grades before and after 30 years settlement (if any).
 - k. The typical street sections shall be incorporated into the improvement plans in accordance with approved Vesting Tentative Map.
 - l. The onsite traffic circulation and parking plan shall be subjected to the approval of the Traffic Engineer and by the Fire Marshal.
 - m. The roadway sections shall be designed to a traffic index of minimum "6". The street section designed by the soil engineer/civil engineer will be submitted to the Traffic Engineer for approval.
 - n. The improvement plans shall incorporate details and specifications for signing, striping and other traffic control devices. These details and specifications must be approved by the City Traffic Engineer, prior to acceptance of Final Map.
 - o. All improvements within the development must comply with all applicable requirements of the Americans with Disabilities Act (ADA).
 - p. The improvement plans shall show all proposed and existing utilities, including fire hydrant, street light, utility boxes and services, etc.
 - q. All utilities within the development shall be underground.
 - r. Prior to final acceptance of the final map, provide a letter from the respective utility companies:
 - 1) Guaranteeing availability and ability to provide services.
 - 2) Review of plans and map for inclusion of easements and soil report.
 - s. The pole type and fixtures of the lighting facilities within the development must be reviewed and approved by the Community Development and Community Services Department.
 - t. Photometric distribution plan must be approved by the Police Department, Community Development and Community Services Department, prior to acceptance of final map.
 - u. Fire hydrants shall be installed in public utility easements (P.U.E.) as required by the Fire Department.
 - v. Improvements such as the pathways, view areas and playground areas on the breakwater and on the east and west jetties/spits be at an elevation approved by the City Engineer.
 - x. All construction under the approved improvement plans shall comply with all applicable provisions of the San Rafael Municipal Code and applicable standard specifications and uniform construction standards, unless otherwise noted or approved by the appropriate departments at the City of San Rafael.
 - y. Four-way stop sign shall be installed at: 1) the intersection of the main access road and the first cross road serving the marina day-use and commercial parking area (west) and the residential area (east); and 2) at the intersection of the main access road and the second cross road serving the east jetty (south) and the residential area (north).
 - z. All existing rebar in the breakwater rip rap shall be removed to the low water line.
15. A final grading plan that is to accompany the subdivision improvements plans shall be prepared and submitted with grading permit application and shall include the following:
- a. The grading plan shall show all proposed and existing contours as well as proposed drainage improvements.
 - b. Final grading, drainage and foundation plans shall be prepared in accordance with the recommendations of the geotechnical report and supplemental letters. The plans shall be reviewed and approved by the soil engineer.
 - c. The specific amount of fill material that is to be imported on the site (estimated at approximately 72,000 cubic yards of fill including surcharge soil and export of approximately 7,000 cubic yards of fill upon completion of the surcharge process).

- Retaining walls shall be a split-face or scored concrete block and shall not exceed the heights as specified on the approved Vesting Tentative Map.
- d. The final grading plan shall comply with the preliminary grading presented on the approved Vesting Tentative Map, and shall include any inconsistencies between the contours and numeric grade shown on the Vesting Tentative Map and the final grading plan shall be subject to the approval of the City Engineer.
 - e. The project site is located in the Special Flood Hazard Zone designated as Zone A1 in the Flood Insurance Rate Map, where the minimum required Base Flood Elevation (BFE) is +6.00' (NGVD 1929 datum). For this area, the City recommends the lowest floor elevation of any building after 30 year settlement shall be at minimum recommended +7.00' (NGVD 1929 datum) to allow for 12" freeboard. The first floor building elevations presented on the Vesting Tentative Map (TM 04-001) are +8.0 or more, which shall be approved for this subdivision and reflected on the improvement plans. The grading plan shall be designed to comply with "Title 18 - Protection of Flood Hazard Areas" of the City of San Rafael Municipal Code.
 - f. To eliminate the potential for flooding on the east jetty/spit, the landscaped portion of this area shall be filled to finished elevations +6.0-7.1 MSL and a 1.5-foot high retaining wall and small cuts (drains) shall be installed at the edge of the jetty parking area, as indicated on Vesting Tentative Map plan Sheet C8.
16. No mass grading shall occur between October 15th and April 15th unless approved by the City Engineer.
 17. A City of San Rafael grading permit shall be obtained for all grading and site improvement work.
 18. A final site drainage plan shall be prepared and submitted for review and approval with the final improvement plans. The plan shall be prepared by a registered civil engineer or hydrologic engineer and shall include hydrologic and hydraulic calculations. The final drainage plan shall be subject to the review and approval of the City Engineer. The improvement plans shall address the following:
 - a. The plans shall show the existing drainage facilities.
 - b. Unless designed to deposit into grassy swales and water quality features, runoff from improved areas shall be collected and conveyed to the street by underground conduit and/or sidewalk under drains or to grassed swales as required under 'e' and 'f' below. Drainage shall not be diverted or concentrated onto adjoining properties or over sidewalks and driveways. All trash enclosures shall be designed to drain to the sanitary sewer system to guarantee treatment.
 - c. All storm drains within the development shall remain private unless otherwise dedicated and accepted by the City.
 - d. The gradient of all storm drain systems shall be designed to accommodate predicted settlement. The improvement plans shall show profiles and grades before and after settlements.
 - e. All concrete-lined ditches shall be natural, earth-tone colors.
 - f. Stenciling or similar signing/noticing shall be provided on curb inlets to prohibit dumping of pollutants.
 - g. The final drainage plans shall incorporate water quality features that would filter site runoff in accordance to RWQCB and MCSTOPPP standards before being deposited into the San Rafael Bay. As presented on the water quality drainage plan prepared for the Vesting Tentative Map (TM04-001 plan Sheet C-13) such features shall be pervious or porous pavement material (to include the boat wash down area adjacent to the public boat

- launch) include bio-swailes (vegetated grassy swales, Continuous Deflective Separators (CDS) or Vortech storm water treatment units (which may need to be modified to accommodate backwater effects), filters inserted into the site drainage inlets to filter runoff, and landscaped and unimproved areas that would act as bio-swailes to allow microorganisms in the soil to clean and filter site waters before release into San Rafael Bay. In addition, prior to preparation of the SWPPP, the Marin/Sonoma Mosquito & Vector Control District shall be consulted to ensure that the measures do not have the potential to promote mosquito breeding (FEIR Mitigation Measure 3.8-1d).
- h. Where grassed swales are to be used to filter pollutants from runoff, they shall consist of a dense, uniform growth of fine-stemmed herbaceous plants best suited for filtering pollutants and tolerant to the water, climate, and soil conditions of the development area. In addition, the swale design shall include, but not be limited, to the following:
 - 1) Design methods for increasing detention, infiltration, and uptake by wetland-typed plants.
 - 2) A flow path adequate to provide for efficient pollutant removal in accordance with the standards of the RWQCB and MCSTOPPP (FEIR Mitigation Measure 3.8-1e).
 - i. The discharge of untreated storm water into the adjacent waters (San Francisco Bay and seasonal wetlands) shall be minimized, and shall not exceed the standards set forth by the NPDES Permit guidelines (FEIR Mitigation Measure 3.7-11g).
 - j. The final drainage plan shall include engineering measures for storing site waters and project runoff, for events when tide levels are too high to allow flap gates to open and release water into the San Rafael Bay (i.e., during the 2.37-year storm event v. highest estimated tide [6.0 NGVD]). Features that would be used to store site waters include the storm drain system itself and/or additional underground pipes for increased storage capacity. The storm drain system shall be subject to review and approval by the City Engineer (FEIR Mitigation Measure 3.8-3).
 - k. All storm drain line subjected to tidal action shall be constructed of flexible water-tight joints and flap-gate (if necessary).
 - l. Public storm drainage within the City right of way shall be maintained as a separate system from the private system. Public drainage shall not be diverted into the private drainage system inside the subdivision or to adjacent private property.
19. The project engineer shall verify the type, size and elevations of existing storm drain outfalls on the project site, including the existing storm drain on the south side of Point San Pedro Road, which are to remain and are to be utilized as part of the development drainage systems. Provide an engineer report on the condition of these pipes to confirm its structural integrity and adequacy.
20. A detailed Erosion Control Plan (ECP) and narrative shall be prepared and submitted to the City Storm Water Program Manager for review and approval. The ECP shall be designed to mitigate erosion and sedimentation impacts during construction. The ECP shall be included in the final grading plan. At a minimum, the ECP and written narrative shall include the following:
- a. A proposed schedule of grading activities, monitoring, and infrastructure milestones in chronological format.
 - b. Identification of critical areas of high erodibility potential and/or unstable slopes.
 - c. Contour and spot elevations indicating runoff patterns before and after grading.
 - d. Identification of erosion control measures on slopes, lots, and streets, based on recommendations contained in the Erosion and Sediment Control Field Manual published by the San Francisco Regional Water Quality Control Board (RWQCB), the Association of Bay Area Governments' Manual of Standards for Erosion and Sediment Control, or

equivalent document, as required by the City of San Rafael General Plan 2020 Policy S-19 (Erosion).

- e. Soil stabilization techniques (such as short-term biodegradable erosion control blankets and hydro seeding) to be utilized.
- f. The post-construction inspection of all drainage facilities for accumulated sediment, and the cleaning of these drainage structures of debris and sediment.
- g. Demonstration that the first ¾" of runoff from the first one-inch of rainfall will be treated.

(FEIR Mitigation Measure 3.8-1a)

21. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared in conformance with Best Management Practices (BMPs) and submitted for review and approval. The SWPPP shall include an Erosion Control Plan (ECP), which ensures that erosion occurring during construction is minimized. The SWPPP shall be prepared by a registered civil engineer, and shall be subject to the review and approval of the City Engineer, and included in the final grading plan. BMPs shall be included in the project including the use of vegetated bio-swales. Bio-swale features shall be incorporated into the grading plan for the subdivision. Irrigation shall be completed to ensure that a consistent, vegetative cover in the swale is maintained from bank toe to top (Mitigation Measure 3.8-1b). The ECP shall include the following:
- a. Erosion control measures for activities that span the rainy season shall be in place before it begins.
 - b. Specific soil stockpile areas shall be designated within the proposed construction areas, and soils shall not be stockpiled outside of the designated areas. Soils and other materials shall not be stockpiled near on-site drainage courses.
 - c. Tarps shall be used to cover any excavation soils during the rainy period.
 - d. The plan shall show the methods of controlling erosion and siltation during and after final grading.
 - e. After completion of grading, erosion protection shall be provided. Re-vegetation shall be accomplished by mulching, hydro-seeding or other appropriate methods, and shall be initiated as soon as possible after completion of grading, and before November 1. Selection of plant materials shall consider native plantings and shall encourage shrubs and trees as a long-term erosion control feature.
 - f. The SWPPP shall comply with the directions for preparing a SWPPP contained in the latest edition of the Guidelines for Construction Projects, published by the San Francisco Regional Water Quality Board (RWQCB). Furthermore, in conjunction with the Marin County Storm Water Pollution Prevention Program (MCSTOPPP), and as required by the General Plan 2020 Policy S-21 (RWQCB Requirements), the project sponsor shall consult with City staff and implement recommended measures that would reduce pollutants in storm water discharges from the site to the maximum extent practicable. The Marin/Sonoma Mosquito & Vector Control District shall be consulted to ensure that the measures do not have the potential to promote mosquito breeding (FEIR Mitigation Measure 3.8-1b).
 - g. A draft copy of the Notice of Intent (NOI) shall be submitted for City approval. Following City approval, the NOI and SWPPP shall be sent to the State Water Resources Control Board. The SWPPP follows the preparation of the Project site grading plan because Best Management Practices (BMPs) for erosion control are selected to meet the specific site requirements (FEIR Mitigation Measure 3.8-1c).
22. A construction management plan shall be prepared and submitted to demonstrate that the contractor will comply with the following measures:

- a. All construction activities at the site (except hauling of imported/exported soil, as provided in condition 22p, below) shall be limited to the hours between 7:00 AM and 6:00 PM Monday through Friday. Construction is not permitted on Saturday, Sunday or City-observed holidays. Construction activities would include delivery of materials, start-up of construction equipment engines, arrival of construction workers, playing of radios and other noises caused by equipment and/or construction workers arriving at or on the site.
- b. A construction staging area plan shall be submitted by the project sponsor for review and approval by the City Traffic Engineer.
- c. The construction staging area shall be kept clear of all trash, weeds, etc. Compliance with this measure is subject to periodic field inspections by the City.
- d. All construction materials related to the installation of the off-site improvements shall be stored on the subject property.
- e. Project construction activities shall not cause maximum noise levels at property line of the closest noise receptor to exceed 90 dBA. See ED04-063 conditions of approval for noise attenuation requirements associated with pile-driving and drilled pier foundation construction.
- f. Construction equipment shall be fitted with noise dampening devices (e.g., mufflers).
- g. All construction equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers.
- h. Noise-generating equipment (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrical powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used (FEIR Mitigation Measure 3.6-1c).
- i. Construction noise reduction methods such as shutting off idling equipment, installing temporary acoustic barriers around stationary construction noise sources, maximizing the distance between construction equipment staging areas and occupied residential areas, and use of electric air compressors and similar power tools (rather than diesel equipment) must be used when feasible.
- j. During construction, stationary construction equipment must be placed such that emitted noise is directed away from sensitive noise receivers.
- k. During construction, stockpiling and vehicle staging areas must be located as far as practical from noise sensitive receptors.
- l. Signs shall be posted at all construction site entrances to the property upon commencement of project construction, for the purposes of informing all contractors and subcontractors, their employees, agents, material men, and all other persons at the construction site.
- m. Earthmoving equipment operating on the construction site must be as far away from vibration-sensitive sites as possible.
- n. Construction hours, allowable workdays, and the telephone number of the job noise disturbance coordinator must be clearly posted at all construction entrances to enable surrounding owners and residents to contact the job coordinator. If the City or the job coordinator receives a complaint, the coordinator shall investigate, take appropriate corrective action, and report the action taken to the reporting party.
- o. The program shall state and confirm that all plans and specifications submitted to the City shall stipulate that, ozone precursor emissions from construction equipment vehicles shall be controlled by maintaining equipment engines in good condition and in proper tune per manufacturer's specifications, to the satisfaction of the City. The City inspector shall be responsible for ensuring that contractors comply with this measure during construction.
- p. The construction management plan and program shall include comprehensive traffic

control plan to address on-site and off-site construction traffic. The traffic control plan shall include a detailed schedule and program for importation of fill material, truck routes, and number of haul trucks per day. Truck hauling of import of fill material shall be limited to 8:00am to 3:00pm, Monday through Friday and all staging and queuing of trucks shall occur within the boundaries of the project site.

- q. The construction logistics plans shall note the penalty in the event that plan conditions are violated (stop work order or fines), and include a commitment for the developer/builder to educate the workers of the parking restrictions and haul routes. The project sponsor or project contractor shall be responsible for informing them of the penalties in the event the restrictions are violated.

(FEIR Mitigation Measures 3.5-1b, 3.6-1a, and 3.6-1c)

23. A copy of the executed construction contract shall be submitted. The contract shall include a written list of instructions to be carried out by the construction manager, specifying measures to minimize emissions by heavy equipment. Measures shall include provisions for proper maintenance of equipment engines, measures to avoid equipment idling more than two minutes and avoidance of unnecessary delay of traffic on off-site access roads by heavy equipment blocking traffic. The project sponsor shall include in the construction contract standard specifications a written list of instructions to be carried out by the construction manager specifying measures to minimize emissions by heavy equipment. Measures shall include provisions for proper maintenance of equipment engines, measures to avoid equipment idling more than two minutes and avoidance of unnecessary delay of traffic on off-site access roads by heavy equipment blocking traffic (FEIR Mitigation Measure 3.5-1c).
24. A Health and Safety Plan shall be prepared and submitted. The plan shall be submitted to the Department of Public Works for review and approval.
25. A Soil Management Work Plan (SMWP) shall be prepared and submitted. To limit potential impacts associated with soil and fill excavation, the SMWP shall establish management guidelines for handling any presently unknown contaminated soil, in accordance with the Phase II ESA (see separate conditions under Fire Department; FEIR Mitigation Measure 3.13-1a). The SMWP shall also present recommended risk management protocols during and after construction, including management of excavated soil, management of in-place soil, excavation dewatering, and long-term compliance with the SMWP. The plan shall contain a description of the following items, which are typically required by the DTSC for areas of contaminated soils:
- The methods to be used for site preparation, grading, excavation, trenching, backfilling, and management of chemically affected soil;
 - A map showing the location of areas proposed for grading, excavation, and trenching;
 - An estimate of the quantity of soil to be excavated and placed in the soil depository (note that DTSC may approve capping contaminated soil onsite in non-residential areas, which would require a deed restriction and management plan for the capped soil);
 - The methods to be used for handling chemically affected soil;
 - The air monitoring procedures, on-site and off-site;
 - The dust control measures to be implemented for earthwork activities;
 - The procedures for soil sampling and chemical testing;
 - The methods for transporting soil;
 - The procedures for training workers in the provisions of the Soil Management Work Plan;
 - The record-keeping and inspection procedures to monitor compliance with the Soil

Management Work Plan; and

- A discussion of the resources to be allocated to implement the SMWP.
(FEIR Mitigation Measures 3.13-1a and 3.13-1b)

26. A dust abatement program shall be submitted for review and approval prior to commencement of grading and/or construction. The project sponsor shall require the construction contractor to implement this dust abatement program. Elements of the program shall include the following:
- a. Water all active construction areas at least twice daily (with recycled water, if possible).
 - b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
 - c. Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites
 - d. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites.
 - e. If visible soil material is carried onto adjacent public streets, the streets shall be swept (preferably with water sweepers).
 - f. Hydroseed or apply non-toxic soil stabilizers to inactive construction areas (previously graded areas inactive ten days or more).
 - g. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - h. Limit traffic speeds on unpaved roads to 15 miles per hour.
 - i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - j. Replant vegetation in disturbed areas as quickly as possible.
 - k. Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.
27. The project sponsor shall be responsible for notifying residences (in writing) within 1,000 feet of the project site of the construction schedule, prior to commencement of demolition, grading and construction. Written proof of notification and the noticing list shall be submitted to the City. The written notice shall include the telephone number of the project construction manager (noise disturbance coordinator). The contractor shall designate a noise disturbance coordinator who would be responsible for responding to complaints regarding construction noise. The coordinator shall determine the cause of the complaint and ensure that reasonable measures are implemented. A contact number for the noise disturbance coordinator shall be conspicuously placed on construction site fences and written into the construction notification schedule sent to nearby residences (FEIR Mitigation Measure 3.6-1b).
28. A screened security fence approved by the City shall be placed and maintained around the perimeter of the project parcel and removed immediately following construction work authorized by a building permit.
29. All earth, drainage, and foundation work shall be under the direction of the project soils engineer, and a final report shall be submitted by the project soils engineer prior to the acceptance of the public improvements.

30. A stabilized construction entrance/exit at the project site access shall be installed to reduce the tracking of sediment by construction vehicles onto adjacent roadways (FEIR Mitigation Measure 3.7-11a).
31. Silt fences shall be installed around or down slope of disturbed areas not immediately under construction. Most importantly, silt fencing must be placed around the northern, western, and southern boundaries of the seasonal wetlands (FEIR Mitigation Measure 3.7-11b).
32. Prior to commencement of grading, the limits of landfill shall be staked and fenced to ensure no filling in any area of seasonal or tidal wetland and to identify the jurisdictional limits of the US Corps of Engineers.
33. All grading and construction work proposed within the City of San Rafael public right-of-way shall require the approval of an encroachment permit.
34. The existing frontage improvements on Point San Pedro Road fronting the subdivision shall be replaced and the traffic signal equipment shall be upgraded. New improvements to include new curb and gutter, sidewalk, installation of accessible ramp at curb returns and landscaping. The traffic signal equipment shall be upgraded as follows, to the satisfaction of the City Traffic Engineer:
 - a. Replace existing pedestrian signal heads on the southeast and northeast corners for northbound and southbound movements with countdown pedestrian signal heads equipped with LED.
 - b. Install new countdown pedestrian signal heads for the east and west movements on the northeast, northwest, south west and south east corners.
 - c. Install all new pedestrian push buttons that meet ADA requirements for all crossings.
 - d. Replace the existing traffic signal pole on the northeast corner with a 20' tall 1-A signal pole, and install new 12" traffic signal heads and hardware.
 - e. Install Econolite Control Product Autoscope detection camera and related hardware in the traffic signal cabinet on the new pole on the northeast corner facing northbound approach (exiting from the project). The new pole and the camera on the northeast corner should be installed and operational in advance of any roadway work that will damage the traffic signal loop detectors for the northbound approach.
 - f. Install curb ramps on the southeast/southwest corners and examine the other ramps at the intersection to assure they are compliant with current standards.
 - g. Install pedestrian barricade and R5-10C sign on the new barricade on the northwest corner facing southbound. (There is no crosswalk on the west side of the intersection)
 - h. Stop control (stop sign, bar and legend) the proposed second access egress movement.Plans of these improvements must be prepared and submitted for approval by the Department of Public Works, prior to the recordation of the Final Map.

Fire Department

35. In accordance with the Phase II Environmental Site Assessment (ESA) prepared for the FEIR, the Registered Environmental Assessor shall submit the results of the ESA to the California Regional Water Quality Control Board (RWQCB) (or appropriate agency) and Department of Toxic Substances Control (DTSC) prior to clean-up/remediation. The following is required:
- a. If contamination is found and contamination levels exceed hazardous waste limits or human health screening levels that are above Federal and/or State limits for residential areas, the soil shall be treated and/or disposed of in accordance with the standards of the City of San Rafael Fire Department, RWQCB, and DTSC (FEIR Mitigation Measure 3.13.1a).
 - b. Additional exploration shall be performed for town homes planned to be constructed on shallow mat foundations in the area of the former Chevron gas station to identify the presence and extent of potential fill variability as a result of past excavation and backfilling. If differences in fill material is found and determined to likely cause problems for Buildings spanning the two materials, additional excavation and re-compaction and/or alternative foundation types (i.e., deep foundation) that would tolerate variable settlement shall be considered and implemented where appropriate in order to ensure structures would not be susceptible to ground failure (FEIR Mitigation Measure 3.9-3b).
 - c. Prior to issuance of Demolition Permits for existing buildings, a licensed asbestos abatement inspector shall be retained by the Project Proponent to conduct an asbestos survey in compliance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) and Bay Area Air Quality Management District's Regulation 11, Rule 2 (Asbestos Demolition, Renovation and Manufacturing) to determine the presence or absence of asbestos, and submit the results of the survey to the City of San Rafael. If asbestos-containing materials (ACMs) are found, any demolition activity that would disturb ACMs or create an airborne asbestos hazard shall be performed by a licensed asbestos abatement contractor under the supervision of a certified asbestos consultant (FEIR Mitigation Measure 3.13-5).
 - d. Prior to the issuance of Demolition Permits for existing buildings, the type of ballasts and capacitors in fluorescent light fixtures shall be identified to determine the appropriate remedial activities (i.e., proper disposal, if necessary). Fluorescent lighting known to contain polychlorinated biphenyls (PCBs) or mercury shall be removed off-site and properly disposed of at an approved landfill or recycling facility. In the event PCBs or mercury from fluorescent light fixtures are accidentally released into the environment, work shall be stopped, the City shall be notified, and the spilled PCBs and/or mercury shall be cleaned up per recommendations of the Fire Department (FEIR Mitigation Measure 3.13-7).
 - e. If soil, groundwater, and soil vapor sampling indicates and laboratory analyses detects the presence of any contaminants in hazardous concentrations above Federal and/or State limits for residential areas, the Registered Environmental Assessor shall contact the California Regional Water Quality Control Board (RWQCB) and the Department of Toxic Substances Control (DTSC) prior to remediating the site according to the procedures identified in the Soil Management Work Plan (FEIR Mitigation Measure 3.13-2).

- f. During grading and construction activities, if a transformer is to be removed, the transformer oil shall be tested for PCBs and any remedial activities (e.g. proper disposal) determined to be necessary by the City's Fire Department shall be implemented. Transformers known to contain PCBs shall be removed off-site and properly disposed of at an approved landfill facility. In the event PCBs from a transformer are accidentally released into the environment, work shall be stopped, the City shall be notified, and the spilled PCBs shall be cleaned up per recommendations of the Fire Department (FEIR Mitigation Measure 3.13-8).
36. The subdivision improvement plans shall include the following information prepared to the satisfaction of the Fire Department:
- a. All roadways shall be designed to have an unobstructed width of 20 feet, capable of supporting a 40,000 lb. vehicle weight and shall have an all-weather surface.
 - b. Fire hydrants shall be sited and spaced at 300-foot intervals and sized to be capable of supplying required fire flow.
 - c. The required fire hydrant types that are to be installed are Clow 950 for the residential area, Clow 960 for the commercial and marina areas and Clow Bronze 2050 or 2060 for areas that require Bronze Hydrants.
 - d. The emergency vehicle access (EVA) proposed at the location of the existing Leith Lane intersection with Point San Pedro Road shall be designed to accommodate conversion to a second vehicle access for the project, in the event this second access is warranted or desired in the future (See Master Use Permit UP04-007 conditions of approval for monitoring this requirement). The access shall be designed consistent with the design parameters set forth by the City Traffic Engineer (standard commercial driveway approach with widened curb cut and widened entrance) with future installation of speed humps/raised tables along the parking court. The entrance to the access shall be secured by bollards, equipped with electronic retraction capability (remote) or a Knox key box. Between the sidewalk and the terminus of the parking court, a strip of turf-block shall be installed across the width of the court, which would be removed and replaced with pavement if the EVA is converted to a second project access. Consistent with the recommendations of the City Traffic Engineer, improvements to the center median of Point San Pedro Road shall be completed with the initial subdivision improvements to accommodate crossing traffic in the event the access is opened. See condition 49 for required posting of security.
 - e. The plans shall demonstrate that fire apparatus can maneuver through all corner turns, with verification by the City Traffic Engineer.

Utilities/Services

37. The subdivision improvement plans shall be submitted to all agencies, districts, utilities, etc. affected by, or providing service to the development, for review and comment. Prior to approval of the improvement plans, the project sponsor shall incorporate design changes requested by the City Engineer as a result of this review. Encroachment permit issuance shall be subject to acknowledgement of review by required representatives, as evidenced on the improvement plans.

Prior to the Filing of a Final Map for Approval and Recordation

Community Development Department – Planning Division

38. Conditions, Covenants, and Restrictions (CC&Rs) for the development shall be prepared and submitted with an application for a Final Map, and shall be reviewed and approved by the

Department of Community Development and the City Attorney's Office prior to recordation of the Final Map. The CC&Rs shall include the following requirements and provisions:

- a. The formation of an owners' association that consists of the marina property owners, the owners of the neighborhood commercial buildings and the residential unit owners.
- b. Owners' association responsibilities for ongoing maintenance of the shared or common facilities and improvements including but not limited to, the common areas, street improvements, landscaping, biological swales, parking areas, underground utilities such as storm drain and sanitary sewers, open space/conservation area, seasonal wetlands and those subdivision improvements located in private yard areas. The breakwater and marina facilities shall be maintained by the marina property owner. The CC&Rs shall clearly specify that maintenance of private facilities and improvements that are not commonly owned or commonly used or shared (e.g., marina boat berths, boat docks, private residential yard areas, private parking lots and parking areas) are the responsibility of the underlying lot/parcel owner.
- c. The CC&Rs shall include provisions for owners' association and individual property owner compliance with on-going Best Management Practices (BMPs). To the extent feasible, the association shall implement the following measures within all on-site common landscaping or other common facilities, which shall be included in the CC & Rs:
 - 1) Materials Use Controls, which include good housekeeping practices (storage, use and cleanup) when handling potentially harmful materials, such as cleaning materials, fertilizers, paint, and where possible using safer alternative products.
 - 2) Material Exposure Controls, which prevent and reduce pollutant discharge to storm water by minimizing the storage of hazardous materials (such as pesticides) on site, storing materials in a designated area, installing secondary containment, conducting regular inspections, and training employees and subcontractors.
 - 3) Material Disposal and Recycling, which includes storm drain system signs and stenciling with language to discourage illegal dumping of unwanted materials.
 - 4) Spill Prevention and Cleanup Activities, which are directed toward reducing the risk of spills during the outdoor handling and transport of chemicals, and toward developing plans and programs to contain and rapidly clean up spills before they get into a storm drain system.
 - 5) Illegal Dumping Controls, which include a prohibition on the dumping of waste products (solid waste/liquid waste and yard trash) into storm drain systems, open space areas, and the drainage channel.
 - 6) Street and Storm Drain Maintenance Activities, which are activities intended to control the movement of pollutants and remove them from pavement through catch basin cleaning, storm drain flushing, street sweeping, and by regularly removing illegally dumped material from the drainage channel (FEIR Mitigation Measure 3.8-1f).
 - 7) A maintenance of storm water controls within the development including an obligation of the association to submit an annual report to the City on their operation.
- d. Provisions and regulations for use and long-term maintenance of all private streets and driveways, including landscaping and irrigation improvements on these streets (street trees and landscape bulb-outs).
- e. Provisions addressing use restrictions and limitations on Parcel V (Conservation Area – seasonal wetlands) including the following provisions:
 - 1) Communicating the prohibition of allowing dogs or cats to roam freely and educational explanations as to the purpose of this prohibition;

- 2) Explaining the importance of keeping all cats indoors, especially those living near the marsh; and
 - 3) Communicating the prohibition of feeding wild animals that may draw predators to marsh birds. Furthermore, the CC&Rs or bylaws of the association shall incorporate language that prohibits dogs from being off leash while on common areas belonging to the association. The association may establish areas where dogs are allowed off leash; however, these areas must be located away from the onsite tidal and seasonal wetlands. The CC&Rs or bylaws shall also restrict any homeowner from allowing their cat to roam free outside. In addition, the CC&Rs or bylaws shall allow the board of directors to assess fines for any homeowner not abiding by the above requirements (FEIR Mitigation Measure 3.7-8a).
- f. Restrictions and regulations for individual homeowner maintenance of building exteriors and landscaping. Restricted paint colors and materials shall be established in the CC&Rs with enforcement by the homeowners' association.
 - g. Private maintenance responsibilities of the association shall be disclosed to potential home/lot buyers. The form of disclosure shall be submitted with the Final Map applications and shall be subject to review and approval by the City Attorney.
 - h. Requirements and provisions for professional management services or the services of a Certified Public Accountant to oversee the homeowners' responsibilities and budget.
 - i. Provisions prohibiting any future changes and amendments to the CC &Rs by the Owners' Association without the consent of the City of San Rafael.
 - j. Provisions stating that the project is designed as a non-gated community and by City and BCDC approvals are required to provide public access and use through the site and to the shoreline in perpetuity.
 - k. Provisions prohibiting the exclusive use or conversion of the residential garages for storage use.
 - l. Provisions acknowledging the formation of a Mello-Roos District. Condition 45 below, requires the formation of a Mello-Roos District for the purpose of providing and guaranteeing long-term funding and maintenance of park and recreation improvements approved for public use and Parcel V (conservation area- seasonal wetlands). The CC & Rs shall acknowledge the purpose of the Mello-Roos District and shall include provisions requiring that, if the District is dissolved, the Owners' Association shall: 1) be responsible for taking over maintenance of these areas and improvements consistent with City park maintenance standards; 2) be required to adjust their association dues to ensure that the costs for maintaining these areas and improvements are included.
 - m. Provisions acknowledging the traffic and parking monitoring conditions set forth in Conditional Use Permit UP04-007. The provisions shall: 1) state that the City has required that project traffic and parking be monitored following completion and occupancy of the project (build-out); 2) specify the milestones (dates) for monitoring; and 3) specify the financial responsibilities for monitoring.
39. The project sponsor shall enter into a below market rate (BMR) housing agreement with the Marin County Housing Authority and the City prior to recordation of a Final Map. The BMR Agreement shall be recorded concurrent with recording of the Final Map. The agreement shall guarantee that 17 of the total number of residential units (20.7% of project total) will be reserved for sale to low-income (8 units at 50 to 80% of median) and moderate-income (9 units at 80 to 110% of median) households as defined by the Marin County Housing Authority. The units shall be distributed among the town home, single-family cottage and residential flat unit types approved for the development, as determined by the City. The agreement shall include resale restrictions and a guarantee that they be reserved for 55 years as BMR units.

40. Street names shall be selected and submitted for approval by the City Community Development Department, Fire Department and Police Department.

San Rafael Sanitation District

41. The project sponsor shall pay a fair share contribution (10.45%) amount of \$147,345.00 to the San Rafael Sanitation District for the planned improvements and upgrades to the Loch Lomond Pump Station.
42. Sanitary sewer connection fees shall be paid in the amount determined by the District.

Public Works Department

43. Approval of this Vesting Tentative Map acknowledges and authorizes the filing and recordation of multiple Final Maps.
44. Prior to the recordation of the Final Map, the project sponsor shall pay the current Citywide Traffic Mitigation fee of \$4,246.00, for combined AM and PM peak hour trip generation. Total fees paid for the project shall be \$263,252.00 adjusted in accordance with the "Lee Saylor Construction Cost Index." This fee is based on a combined AM and PM peak hour trip total of 62 trips that would be generated by the project (build-out) multiplied by the \$4,246.00 amount.
45. The Vesting Tentative Map requires and the project sponsor shall agree to the formation of a Mello-Roos District for the purpose of providing and guaranteeing long-term funding and maintenance of park and recreation improvements that are approved for public use and the conservation area (seasonal wetlands) on Parcel V. The boundaries of the District shall cover the entire 131+ acre marina site for assessment to the marina property owner, the owners of the neighborhood commercial/mixed-use parcels and the residential property owners within this development. The 17 below-market-rate (BMR) residential units approved with the Vesting Tentative Map shall be exempt from the Mello-Roos tax. Long-term funding and maintenance of the following above-ground improvements and facilities shall be covered by the Mello-Roos District:
- a. The marina green and boardwalk
 - b. kayak launch
 - c. park play equipment and area
 - d. pedestrian pathways along the west jetty/spit, east jetty/spit
 - e. viewing areas along the west jetty/spit, east jetty/spit
 - f. public rest rooms (2), one on the east jetty/spit and one at the entrance to the breakwater
 - g. fishing cleaning station located near the entrance to the breakwater
 - h. park and informational signs within these areas
 - i. lawn/turf, shrubs and groundcover, irrigation systems, storm water drainage inlets within boundaries of the area, lighting pole standards and fixtures above the foundation; benches; trash receptacles; and bicycle racks
 - j. conservation/seasonal wetland area (Parcel V)
- The District shall be formed concurrent with the filing of the Final Map.
46. The Final Map shall be prepared in accordance with the SRMC Title 15 (Subdivisions) as amended herein, and the Subdivision Map Act, and shall show all existing and proposed easements on the map. The Final Map shall include the following reservations and offers for dedications of easements, parcels and improvements:

- a. Delineate on map a permanent conservation area over Parcel V (Conservation area including seasonal wetlands). The Final Map shall include the note: "Not for Development Purposes." These parcels shall be owned in-fee and maintained by the Owners' Association.
- b. Dedicate and delineate on map non-exclusive public easements over the parcel(s) designated as retail parking (Parcel W); marina, marina green and boardwalk, breakwater, east and west spits (Parcel 80, A, X and Y), and streets (Parcel A through K).
- c. Dedicate and delineate on map parking and public access easements from Point San Pedro Road extending to the marina waterfront improvements/facilities/amenities intended to include for public use and access along pedestrian paths (Parcels 80, A through S, V, X and Y). The emergency vehicle access/potential second vehicle access to Point San Pedro Road at the existing Leith Lane intersection shall be fully contained in Parcel E, requiring an adjustment in the lot lines of Lot 3 and 4.
- d. Delineate and dedicate for public access, drainage and maintenance of public access at the northwest property corner on that parcel of land described in the Marin County Recorder's Office, official record 91-30834 between the City and Loch Lomond Marina. The easement provides pedestrian and maintenance access to the contiguous San Pedro Cove open space, and shall remain open and accessible at all times for public access and for drainage maintenance.
- e. Delineate and dedicate on map drainage and maintenance access easement along the northeast property boundary, encompassing the existing public drainage facilities discharge, tidelands and estuary.
- f. Dedicate a non-exclusive public easement to the City, as specified by the City Engineer.
- g. Map the boundary limits of the marina green, boardwalk, kayak launches, east and west spits, where the City agrees to maintain certain bay front improvements, facilities, amenities under the formation of a Mello-Roos District, as required by TM04-001 condition listed above. The final boundary limits of these parcels shall be reviewed and approved by the City, prior to acceptance of the Final Map.
- h. The boundaries of Parcels 80 and A shall be adjusted so that the entire marina parking area located east of the public plaza and roundabout is contained within Parcel 80.
- i. Parcel T (Wetland E, small drainage channel), shall be combined with adjacent residential lot 15.

Unless as required above (a-f), all other easements deemed necessary for all existing and proposed utilities shall be identified, to the satisfaction of the City Engineer. Closure calculations for all easements, except the public utility easements (PUE) located adjacent to streets, shall be submitted for review and approval by the City Engineer.

47. A subdivision agreement, in a form acceptable to the Department of Public Works and the City Attorney's Office, shall be prepared and executed for the construction of all public improvements.
48. An engineer's estimate shall be submitted for the cost of all public and private improvements. The estimate shall be subject to approval by the City Engineer. Based on the engineer's estimate, bonds or other approved securities must be furnished to the City in accordance with the Subdivision Improvement Agreement to ensure completion of public and private improvements, prior to acceptance of Final Map.
49. Prior to the recordation of the Final Map, subdivision plan review, plan check and inspection fees shall be paid based upon the engineer's estimate and in accordance with the most current master fee schedule. In addition, the project sponsor shall post the following security with the City in the form of a letter of credit or cash deposit:

- a. Fifty-thousand dollars (\$50,000) to cover the cost of installing traffic calming measures in the Loch Lomond neighborhood to address potential by-pass traffic or diversions. Per Master Use Permit UP04-007 condition 8, this security shall be held by the City for four years following completion and occupancy of the project (build-out) and shall be used in the event the City determines that traffic calming measures are needed and should be installed. If it is determined that installation of traffic calming measures is not necessary the security shall be returned/refunded to the project sponsor.
 - b. Ten-thousand dollars (\$10,000) to cover the cost of converting the emergency vehicle access (located at the second parking court east of the main project entrance) to a full-service second vehicle access for the project site, which would include removing the turf-block and replacing it with pavement and installing two speed bumps/raised tables along the parking court. Per Master Use Permit UP04-007 condition 8, this security shall be held for four years following completion and occupancy of the project (build-out) and shall be used in the event the City determines that the second access is necessary and should be installed. If, during the first four years, the project Owners' Association requests and receives City approval to construct the second access, the security shall be used to install the second access. All construction work for conversion of the emergency vehicle access shall be completed by the project sponsor or project Owners' Association. If, after the four year monitoring, it is determined that conversion of the emergency vehicle access is not necessary or desirable, the security shall be returned/refunded to the project sponsor.
50. Any easement to be abandoned or vacated must be filed and recorded. The number recorded to abandon/vacate the easement shall be shown on the Final Map.
51. A licensed engineer or hydrologist shall confirm, in writing, the conclusions of the hydrological analyses prepared for the project site.
52. A maintenance agreement shall be executed between the project sponsor and the City to ensure that the storm water controls will be maintained and that an annual report of their operation is submitted to the City. The agreement shall provide the City the right to access the storm water controls for inspection. See TM04-001 conditions above for CC &R provisions necessary to address long-term implementation of this requirement.

During Grading and Site Preparation

Community Development Department – Planning Division

53. During the construction phase of the Project, the construction contractor shall be required to implement the following mitigation measures:
- a. A screened security fence, approved by the City of San Rafael, shall be installed and maintained around active construction areas to screen views of debris, equipment, and work staging areas. The screen security fence shall be removed immediately following completion of construction work authorized by the Building Permits.
 - b. Dumpsters shall be regularly emptied.
 - c. The construction site and construction staging areas shall be kept clear of trash, weeds, and construction debris. Compliance with this measure is subject to periodic inspections by the City of San Rafael.
- (FEIR Mitigation Measure 3.2-1).
54. If human remains are encountered at any time during earth disturbing activities, all work shall stop in the immediate vicinity of the discovered remains and the County Coroner and a

qualified archaeologist shall be contacted to evaluate the remains. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission shall be contacted by the Coroner within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be most likely descended from the deceased Native American. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public resources Code Section 5097.58, or; where the following conditions occur, the property owner or an authorized representative(s) shall rebury the Native American human remains and associated grave goods, with appropriate dignity, on the property in a location not subject to further subsurface disturbance:

- a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent fails to make a recommendation within 24 hours after being notified by the Commission.
- b. The descendent identified fails to make a recommendation; or
- c. The landowner or an authorized representative rejects the recommendation of the descendent, and mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

(FEIR Mitigation Measure 3.12-2).

55. An archaeologist shall be present on the project site to monitor grading and construction activities. Monitoring shall consist of directly watching the major excavation process and shall occur during the entire workday, on a daily basis until a depth of excavation has been reached at which resources could not occur. This depth is estimated as usually about 5 feet below grade at the beginning of the project, but may require modification in specific cases, to be determined by the monitoring archaeologist based on observed soil conditions.
56. The construction of subdivision improvements shall be subject to all of the conditions required for ED04-063, which must be met or implemented during construction.

Community Development Department - Building Division

57. The project sponsor shall be responsible for overseeing and/or ensuring that the contractors properly implement the approved construction logistics/staging plan. Signs shall be posted informing workers of restricted hours and fines for violations.

Public Works Department

58. A certified geotechnical engineer shall provide observation and testing services during the grading and surcharge phases to confirm that the surcharge is appropriately placed and settled, that the resulting conditions are similar to those assumed for design, and to verify that construction and grading are performed in accordance with the project plans (FEIR Mitigation Measure 3.9-3c).
59. The Project contractor shall only import soils with an expansion index of 50 or less. In addition, imported fill material shall be inorganic and have a plasticity index of 15 or less. Bay mud is not suitable for site fill. A certified geotechnical engineer shall be retained by the Project Proponent to test and verify that the imported soils do not have an expansion index greater than 50 or a plasticity index greater than 15 (FEIR Mitigation Measure 3.9-6b).
60. All proposed buildings shall be built on at least six feet of competent soil between the base of the town home mats and the top of any bay mud layers. During the reworking of the top

three feet of the existing fill, “proof rolling” of the sub grade shall be observed to confirm that the soil is firm and unyielding before placement of any fill. (“Proof rolling” tests the stability and uniformity of the sub-grade compaction.) If the soil is found to be soft and/or consists of non-uniform sub-grade stability, then excavation shall extend to a depth of seven feet and horizontally ten feet beyond the mat foundation footprint (excavation pit side slopes shall not be steeper than 2:1). Across most of the Project site, the ground surface shall be raised several feet for flood control purposes. Therefore, there should be an adequate amount of engineered fill beneath structures. Existing or imported soils can be used as engineered fill provided that it meets requirements for fill (e.g., an expansion index of less than 50 and a plasticity index 15 or less) (FEIR Mitigation Measure 3.9-6c).

61. The project sponsor’s contractor shall implement the following measures during construction activities to control and reduce PM₁₀ emissions per the BAAQMD’s recommendation.
 - a. Water all active construction areas at least twice daily.
 - b. Cover all trucks hauling soil, sand and other loose materials or require all trucks to maintain at least two feet of freeboard.
 - c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
 - d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
 - e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
 - f. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
 - g. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
 - h. Limit traffic speeds on unpaved roads up to 15 mph.
 - i. Install sandbags or other erosion control measures to prevent silt runoff to public roadways and the San Rafael Bay.
 - j. Replant vegetation in disturbed areas as quickly as possible.
 - k. Install wheel washers for all exiting trucks, or wash off the tires or racks of all trucks and equipment leaving the site.
 - l. Install windbreaks, or plant trees/vegetative windbreaks at windward side(s) of construction sites.
 - m. Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.(FEIR Mitigation Measure 3.5-1a)
62. All soil stockpiles shall be covered and surrounded with berms or gravel bags, and shall not locate them within 50 feet of the high tide line of San Francisco Bay, seasonal wetlands, any drainage facility, or any roadway (Mitigation Measure 3.7-11c).
63. All soil erosion and sediment control measures shall be kept in place until construction is complete and the disturbed areas are stabilized (FEIR Mitigation Measure 3.7-11f).
64. The project contractor shall be responsible for any silt and/or debris deposition in the existing drainage system before deposited into the San Rafael Bay. The contractor shall be required to clean all debris in the downstream facilities if so directed by the Department of Public Works Department.

Fire Department

65. If any paint is separated from building materials (chemically or physically) during demolition of structures, the Project Proponent shall retain a licensed lead-based paint inspector to implement the following steps:
- Evaluate paint waste independently from the Building material to determine whether or not lead-based paint (LBP) is present and to specify its proper management.
 - If LBP is found, complete abatement prior to any demolition activities that would create lead dust or fume hazard.
 - Remove LBP in accordance with California Code of Regulation Title 8, Section 1532.1, which regulates and specifies exposure limits, exposure monitoring, respiratory protection, and good worker practices by workers exposed to lead.
 - Provide evidence by any contractor performing LBP paint removal to the City Building Official and County Environmental Health Department of the contractor's certified training for lead-related construction work.

(FEIR Mitigation Measure 3.13-6a)

66. In the event paint is not removed from the building material during demolition (and is not flaking or peeling), the material shall be disposed of as construction debris (i.e., as a non-hazardous waste). The Project Contractor shall contact the landfill operator in advance to determine whether the landfill has any specific requirements regarding the disposal of lead-based paint materials (FEIR Mitigation Measure 3.13-6b).

67. Fire hydrants shall be installed, capable of supplying the required fire flow. The fire hydrants shall be spaced at 300 foot intervals, spotted by the Fire Marshal and installed prior to framing. All hydrants shall be painted prior to the acceptance of the Fire Department, in accordance with the following painting standards:
- Primer – Two coats of Zinc Chromate or Synthetic Chromate Primer
 - Top Coat – Two coats of Spectra-Tone, Induston Heavy Duty Paint, Safety Zone Yellow (9815) in color.

68. 'No Parking' fire Lane signs and curb markings shall be installed for all access roadways, parking lots, and driveways, as specified by the Fire Marshal conforming to Fire Prevention Standard 204.

Prior to Completion of Final Inspection of Subdivision Improvements

Community Development Department – Planning Division

69. In conjunction with the completion of the wetland mitigation and enhancement requirements, the following improvements shall be installed:
- The viewing pad located south of the breakwater entrance shall be installed for bird watching (FEIR Mitigation Measure 3.7-8d).
 - Install weather resistant signs in common areas near the onsite wetlands explaining the importance of keeping pets away from wildlife and maintaining the tidal marsh and wetland habitats for native species such as the California clapper rail and other sensitive species (FEIR Mitigation Measure 3.7-8a).
 - Install all-weather signs along the pedestrian nature trail and along the parking lot directly adjacent to the created seasonal wetlands that contain information to:
 - Educate the public about the sensitive habitat and wildlife that are within the Project vicinity.
 - Inform the public that intrusions into the wetlands by people and pets can be very harmful to wildlife.

- 3) Notify the public to keep out of the wetland areas and put their dogs on leashes. These signs shall be maintained in perpetuity by the Property Owners' Association (FEIR Mitigation Measure 3.7-8c).

Public Works Department

70. As-built improvement plans on 24"X36" reproducible 'mylar' shall be submitted upon completion of the subdivision improvements and fulfillment of the terms of the subdivision agreement.
71. Upon completion of final grading, all disturbed areas shall receive a final seeding and mulching in accordance with a Soil Erosion and Sediment Control Plan to be developed by the Project Proponent (FEIR Mitigation Measure 3.7-11d).
72. Upon completion of final grading, all soil slopes shall be protected from erosion by top hydro seeding or soil binders as much as is feasible (FEIR Mitigation Measure 3.7-11e).

Fire Department

73. A stop light override for fire apparatus shall be installed in the traffic signal at Point San Pedro Road/Lochinvar Road/Loch Lomond Drive.

Post Construction Monitoring

74. See mitigation monitoring conditions set forth in Master Use Permit UP04-007.

The foregoing Resolution No. 12332 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

c:\chl\mnd.cres(up-ed-tm)[8-6-07]