

SUMMARY OF ORDINANCE NO. 1860

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE ZONING MAP TO RECLASSIFY CERTAIN REAL PROPERTY FROM PLANNED DEVELOPMENT – WETLAND OVERLAY (PD/WO) DISTRICT AND WATER (W) DISTRICT TO PLANNED DEVELOPMENT – WETLAND OVERLAY (PD/WO) DISTRICT FOR THE PURPOSE OF APPROVING THE DEVELOPMENT PLAN FOR THE VILLAGE AT LOCH LOMOND MARINA, A MIXED-USE DEVELOPMENT OF A 131+ ACRE SITE LOCATED AT 110 LOCH LOMOND DRIVE AT POINT SAN PEDRO ROAD (APNS 016-070-020, 030, 040, 050, 060; 009-141-050, 070, 080; AND 009-142-070) (ZC 04-002)

The City of San Rafael Zoning Map, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is being amended by the San Rafael City Council as detailed in the complete text and accompanying maps of Ordinance No. 1860. For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk at 415-485-3066 or the Community Development Department, Planning Division, at 415-485-3085. Copies of the Ordinance containing this Municipal Code amendment are also available for public review as of Wednesday, August 15, 2007, at the San Rafael City Clerk's Office, 1400 Fifth Avenue, 2nd Floor, Room 209, during regular business hours, 8:30 a.m. to 5:00 p.m.

SUMMARY OF AMENDMENT TO MUNICIPAL CODE


This Ordinance amends the Zoning Map of the City of San Rafael to reclassify certain real property located at 110 Loch Lomond Drive at Point San Pedro Road in the City of San Rafael, Marin County, California, (APNS 016-070-020, 030, 040, 050, 060; 009-141-050, 070, 080; and 009-142-070) from Planned Development – Wetland Overlay (PD-W/O) and Water (W) District to Planned Development – Wetland Overlay (PD-W/O) District for the Village at Loch Lomond Marina Development project. The PD-W/O District amendment approves the specific Development Plan for the subject property and establishes the permitted uses and densities and other pertinent development standards for the construction of the marina, neighborhood commercial, residential, recreation and conservation land uses.

PUBLICATION

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after adoption, together with the names of those Councilmembers voting for or against the same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.


ALBERT J. BORO, Mayor

ATTEST:


JEANNE M. LEONCINI, City Clerk

The foregoing Ordinance No. 1860 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, the 6th of August, 2007, and was ordered passed to print by the following vote, to wit:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a regular meeting of the City Council to be held on Monday, August 20, 2007.


JEANNE M. LEONCINI, City Clerk

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ORDINANCE NO. 1860

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE ZONING MAP TO RECLASSIFY CERTAIN REAL PROPERTY FROM PLANNED DEVELOPMENT – WETLAND OVERLAY (PD/WO) DISTRICT AND WATER (W) DISTRICT TO PLANNED DEVELOPMENT – WETLAND OVERLAY (PD/WO) DISTRICT FOR THE PURPOSE OF APPROVING THE DEVELOPMENT PLAN FOR THE VILLAGE AT LOCH LOMOND MARINA, A MIXED-USE DEVELOPMENT OF A 131+ ACRE SITE LOCATED AT 110 LOCH LOMOND DRIVE AT POINT SAN PEDRO ROAD (APNS 016-070-020, 030, 040, 050, 060; 009-141-050, 070, 080; AND 009-142-070) (ZC 04-002)

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, up to 84 residential units and associated park and recreation improvements on a 29+ acre portion of the 131+ acre Loch Lomond Marina site located Point San Pedro Road and Loch Lomond Drive; and

WHEREAS, a Rezoning application was filed concurrent with applications requesting a General Plan Amendment, Master Use Permit, Environmental and Design Review Permit and Vesting Tentative Map to rezone the subject property from Planned Development – Wetland Overlay (PD/WO) and Water (W) District to Planned Development (PD/WO). The purpose of this request is to approve a specific Development Plan for the site to accompany the PD District; and

WHEREAS, upon a review of the subject applications, 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. The FEIR consists of an edited Draft Environmental Impact Report volume (Volume 1), a Response to Comments volume (Volume 4) and appendices containing technical background studies (Volumes 2 and 3). The City Council certified the FEIR by adoption of a separate resolution; 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 proposed some changes to the general layout and distribution of land uses and a reduction in the number of residential units (from 84 to 82 units total). The FEIR includes an assessment of the Mitigated Plan, comparing the potential environmental affects of this plan 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 affects. In April 2007, the planning applications were amended to reflect the Mitigated Plan and further amendments to the Development Plan were made as a result of Planning Commission review and recommendations. Additional amendments to the Development Plan were made in July 2007 in response to the Planning Commission recommendations; and

WHEREAS, on April 24, 2007, the Planning Commission held a public hearing on the proposed Rezoning and related project applications, accepting all public testimony and the written report of the Department of Community Development. On May 8, 2007, the Planning Commission recommended approval of the Rezoning to the City Council by adopting Resolution No. 07-04, which included recommendations for further amendments to the Development Plan; 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.

WHEREAS, the proposed Planned Development (PD) District contains land use regulations and limitations, development standards, project phasing and monitoring requirements for four (4) land use areas, as outlined in Exhibits 'A' and 'B;' and

WHEREAS, the application for Rezoning of the site to PD/WO District includes a Development Plan consisting of project plans submitted for approval with the development standards, which contain information required pursuant to Zoning Ordinance Section 14.07.060. The Development Plan 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. The site plan layout is presented in attached Exhibit 'A-1' Development Plan, as amended; and

WHEREAS, a notice described the proposed amendments to San Rafael Map was: a) published in a local newspaper of general circulation in the area; and b) mailed to property owner's within 2,000 feet and special interest groups; 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.

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the Municipal Code is amended by reclassifying real property presented in attached Exhibits A, B and C from Planned Development – Wetland Overlay (PD-W/O) District and Water (W) District to Planned Development – Wetland Overlay (PD-W/O). Said property so classified is located at 110 Loch Lomond Drive at Point San Pedro Road, San Rafael, as shown on County Assessor’s Parcel Numbers 016-070-020, 030, 040, 050, 060; 009-141-050, 070, 080; and 009-142-070 per legal description attached as Exhibit ‘C.’ This amendment is based on the following findings required by SRMC Sections 14.07.090 (PD District) and 14.13.070 (W/O District):

1. As amended by the adoption of accompanying General Plan Amendment application number GPA 05-001, the Planned Development/Wetland Overlay (PD-W/O) District and the accompanying Development Plan, as revised are consistent with the San Rafael General Plan 2020 in that:
 - a. Land Use Policy LU-10 requires that Planned Development Zoning be applied to projects proposed on sites of five (5) acres or more to promote comprehensive site planning. As proposed, the PD District is appropriate given the property size and that it would facilitate a comprehensive site plan for a mix of land uses.
 - b. Land Use Policy NH-118 provides site-specific direction for the development and use of the Loch Lomond Marina site. The PD District and Development Plan, as revised are consistent with the specific direction of this policy in that the project: 1) retains the marina and support uses as a full-service marina facility including 16 dry dock boat storage spaces; 2) provides ample area for the redevelopment of needed neighborhood-serving retail, service and grocery store uses; 3) provides expanded waterfront-oriented recreation uses along the marina, spits and breakwater, which would include activities such as and among others, an equipped children’s play area/tot lot, picnicking, walking, kayaking, fishing and bird watching; 4) provides new residential use with four (4) different unit types with approximately 55% of the units being attached town homes and residential flats and 45% of the units being detached single-family homes and cottages; and 5) preserves and enhances wetlands and other natural resources. In addition, through the Design Review Board process, it has been determined that the Development Plan, as revised: 6) achieves an extraordinary design that is innovative, enhances the neighborhood and the bay front; 7) protects views of the marina and waterfront from the project entrance and at several other locations along the Point San Pedro Road frontage; 8) provides pedestrian and bicycle access through the site and to the waterfront; and 9) provides an internal street system that includes narrow streets that promote traffic calming and a separate pedestrian trail system that would not conflict with the vehicle traffic.
 - c. As proposed, the PD District and Development Plan addresses and conforms with Land Use Element Policies LU-7 and LU-8, and General Plan Figure 4 (Floor Area Ratios in Central San Rafael), which provide residential density and non-residential intensity limits that are applicable to the project site. Firstly, residential use is proposed within an area designated Neighborhood Commercial, which permits a gross density range of 6.5-15.0 dwelling units per acre. The Development Plan, as revised would result in a gross density of 7.5 dwelling units per acre (at build-out), which is at the low-end of the permitted residential density range. Secondly, General Plan Exhibit 4 presents a 0.32 floor area ratio (FAR) limit for non-residential uses on the Loch Lomond Marina site. The Development Plan, as proposed, would result in a

non-residential FAR of 0.1 for the marine-related and neighborhood commercial uses, which would be well below the limits set forth in Exhibit 4.

- d. Consistent with Land Use Element Policy LU-3 (Project Selection Process), in 2006, the project received 'PSP' approval as a high priority project based on the February 2005 project design. While the latest plan revisions significantly improve the design of the project, new 'PSP' approval will be required.
- e. The distribution of land uses presented in the Development Plan are sited to provide an ample transition in setbacks and building heights to existing, neighboring land uses, which would be consistent with Policy LU-14 (Policy LU-14, Land Use Compatibility) and Policy H-3 (Design that Fits into the Neighborhood Concept). Furthermore, as encouraged by Policy NH-2 (New Development in Residential Neighborhoods), the PD District and Development Plan would enhance and maintain the residential character of the surrounding neighborhood by siting buildings that would be considerably set back from the adjacent neighborhoods, incorporate building height limits of one- and two stories to respect existing one- and two-story building heights in the neighborhood, preserve wetland resources on the project site (with the exception of Wetland E, which the project sponsor proposed preserving and protecting but which the City Council found to be of limited biotic value to warrant protection consistent with City policies) and provide ample parking to meet the needs of the uses within the project site.
- f. Land Use Element Policy LU-15 (Convenient Shopping) and Neighborhood Element Policies NH- 10 (Neighborhood Centers) and NH-11 (Needed Neighborhood Serving Uses) encourage the retention of and improvements to existing neighborhood centers, to provide needed neighborhood services, reduce traffic and to adapt to changing community needs. As proposed, the PD District and Development Plan as revised would be consistent with these policies in that a new neighborhood center would be developed and appropriately sited to: 1) maximize neighborhood access and orientation to the marina and bay front; 2) provide continued and improved services such as area for a full-service grocery store/market; and 3) encourage shopping within the neighborhood so that traffic to other shopping destination points is reduced.
- g. As proposed, the PD District and Development Plan as revised would be consistent with and would respect areas of the site designated for Conservation use under the General Plan. The eastern and southeast portions of the project site, which contain seasonal wetlands, marsh and tidelands is considered to be an environmentally sensitive area, which is proposed to be preserved and protected. Furthermore, within this Conservation area are seasonal wetlands, along with marsh and tidelands, which would be preserved and expanded consistent with Open Space Element Policies CON-2 and CON-3. Lastly, the project is designed to expand the larger seasonal wetlands by 9,500 square feet, which in combination with the setback enhancements will protect the function of the wetlands and improve the biological value of the Conservation area.
- h. 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 currently revised, the Development Plan proposes the filling of Wetland E, a small manmade drainage ditch of 278 square feet located within the proposed residential area of the project site. 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 has determined that the filling of this wetland would not be in conflict with these policies in that: 1) 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 2) 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. Further, although it has been demonstrated that this small wetland can be preserved and protected under the current site plan layout, the conditions resulting from preserving it: 1) cannot fully enhance this wetland, and therefore, merely preserve its current condition of affording very limited biotic value; and 2) 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 fully 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: 1) would be consistent with Policies CON-2 and CON-3 by proposing a 31:1 wetland replacement ratio; and 2) 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.

- i. The project design, as conditioned, is consistent with the City's development and conservation goals, policies and objectives in that, as a whole, the project achieves the City's objectives to maintain a viable marina and neighborhood commercial services; provide greatly needed new housing, including affordable housing; to improve and expand recreation activities; and minimizing wetland impacts. Implementation of the Wetland Mitigation Plan proposed with the project application would: 1) preserve, protect and enlarge the existing valuable Wetlands A and B, so that they can perform their natural environmental function of upland seasonal habitat for shore birds and other wildlife species; 2) ensure that wetlands are not adversely affected by existing and proposed human activity on the project site; 3) minimize impacts to Wetlands C and D; 4) incorporate flood control and storm water drainage plans, which would include the quality of runoff into the Bay by channeling this runoff into bio-swales; 5) provides locations and facilities to educate the public on the wildlife values of the wetlands, Bay waters, and nearby wildlife habitats; 6)

provide recreation opportunities that are compatible with and sensitive to the on-site wetlands; and 7) presents a plan that best meets the objectives of the City for the project site.

- j. Land Use Policy LU-12 and General Plan Exhibit 7a establish maximum building heights for the northern portion of the project site of 30 feet for a single-use building and 36 feet for a mixed-use building and a 36-foot height limit for the southern portion of the project site. As proposed, the PD District and Development Plan as revised present building heights that would be within and would not exceed the height limits specifically established for the project site by the General Plan. As recommended by the City Council, a reduction in the height of the roofs for the two-story homes along the southern border of the residential area (fronting the marina) would improve views of the San Pedro Ridge from the marina boardwalk and green. The PD District incorporates a development standard that sets the building height limits as those presented on the Development Plan including a one-story height limit for the seven detached, cottage residential units along the Point San Pedro Road frontage.
- k. The Neighborhood Element Vision Statement for the Loch Lomond Neighborhood states that the “Loch Lomond Shopping Center may be redeveloped to feature neighborhood-serving and marine-related retail and services including a market, neighborhood-serving offices, residential uses, and a restaurant. Further, this statement notes that the marina should continue to feature boat slips, a yacht club, a public boat launch facility, protection of the existing marsh and wetland areas and a design that is compatible with the surrounding residential uses. As proposed, the PD District and the revised Development Plan accomplish all of the elements this vision statement, including: 1) the preservation of a full-service marina use and marina-support facilities; 2) development of a new restaurant and redevelopment of a neighborhood center with new buildings that would accommodate needed neighborhood retail and services in addition to a full-service grocery store/market; 3) development of residential uses; and 4) preservation and protection of all wetlands on the project site.
- l. The General Plan Housing Element promotes housing goals and policies, which include the requirements for development projects to provide new, below market rate units (Policy H-19) and that such units be distributed throughout the development (Policy H-1). As proposed, the PD District would be consistent with these policies in that it includes a requirement for the project to reserve a minimum of 20% of the total number of residential units for sale to households of low-and moderate-income. Furthermore, the Development Plan, as revised includes a mixed-use building that would contain five (5) residential units over neighborhood commercial use, which would be consistent with Housing Element Policy H-23. Further, as conditioned, the PD District would acknowledge and ensure continued maintenance of 52 marina berths for permanent ‘liveboards,’ which would be consistent with Policy H-10 (Protection of Existing Housing Stock).
- m. As revised, the Development Plan would be consistent with General Plan Safety Element Policies S-17, S-18 and S-32, in that it is designed to exceed the FEMA flood hazard zoned elevation requirements by providing finished elevations with a minimum of one-foot of freeboard and up to two-feet of freeboard. Further, the project is designed to provide a second means of site access for emergency vehicles under project build-out, as recommended by the City Traffic Engineer and Fire Department.

2. The Development Plan, as revised presents a mixed-use environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood and has provided adequate open space in that:
 - a. It appropriately distributes and transitions residential unit types, densities and building heights based on the pattern, scale and density of development on immediately surrounding sites, including a one-story building height limit for detached residential units fronting Point San Pedro Road.
 - b. It is designed to cluster development and establish areas of permanent open space, which are set aside for the purpose of preserving and enhancing site resources, particularly seasonal wetlands.
 - c. As designed and revised, the Development Plan is self-contained and does not rely on off-site facilities for access and parking. By proof of two independent parking studies prepared for the FEIR, the Development Plan, as revised is designed to provide an adequate amount of parking to meet or exceed the City parking requirements for the neighborhood commercial and residential uses and meet the peak parking demand for marina and recreation uses.
 - d. As revised, the Development Plan proposes neighborhood commercial use of ample size and appropriate design to provide needed neighborhood serving retail and service uses including a full-service grocery store/market, which would provide convenience and service to the San Pedro Peninsula and minimize traffic and vehicle trips west to other shopping destinations outside the neighborhood.
3. The project sponsor has demonstrated that the public facilities would be provided to serve the anticipated population in that: a) the project development would be within the density limits allowed under the San Rafael General Plan 2020, as amended; b) the site can be adequately served by the San Rafael Sanitation District (subject to annexation) and the Marin Municipal Water District; and c) the City of San Rafael Police, Fire and Public Works Departments have reviewed the project and have determined that adequate services are available to the project and site.
4. The PD District and the Development Plan, as revised, would be improved by deviations from typical Zoning Ordinance property development standards in that such deviations are necessary in order to: a) retain and enhance the existing marina use component as a full service marina facility; b) expand public recreation opportunities and park area for public use; c) to preserve and improve neighborhood commercial uses and services including building area to accommodate a full-service grocery store/market; d) maximize the amount of housing on the site to the extent feasible and to facilitate a providing a broad mix of housing types; e) preserve and expand existing wetland resources, with the exception of Wetland E. As revised, the Development Plan is designed to cluster housing in an effort to preserve the existing on-site wetlands, promote the development of new wetlands on site and maximize the amount of land area for marina and neighborhood commercial uses, which would be consistent with the site design direction set forth in General Plan 2020 Policy NH-118. Such clustering cannot be accomplished without some deviation to the typical Zoning Ordinance standards.
5. The auto, bicycle and pedestrian traffic system presented on the Development Plan is adequately designed for circulation needs and public safety in that: a) with some minor exceptions and conditions, the internal street access and circulation would meet City standards as roads are of adequate width and design to provide safe travel and emergency vehicle access; b) an emergency vehicle access road and easement is proposed to provide a second means of ingress and egress from the development, which would promote and

improve safety; and c) as revised, it proposes pedestrian access walkways through the development to the bay front, separated from vehicular traffic. Further, as revised the Development Plan provides parking that is appropriately distributed to service the uses on the project site, would meet or exceed City parking code requirements for the neighborhood commercial and residential uses and would meet, with some monitoring conditions, the parking demand for the marina and public recreation use component

6. The public health, safety and welfare are served by the adoption of the proposed PD District, as conditioned in that: a) it would implement the neighborhood commercial, marina use, housing, environmental and public recreation goals and policies adopted for this site in the San Rafael General Plan 2020; b) as proposed and conditioned it would conform to City standards for safety; c) as proposed, it would be consistent with the recommended mitigation measures presented in the Final Environmental Impact Report (FEIR) prepared for the Village at Loch Lomond Marina Development project and where appropriate, such measures from the MMRP have been incorporated into Exhibit B of this action; and d) as recommended by General Plan Neighborhood Element Policy NH-118b (Common Area Maintenance for Loch Lomond Marina), the formation of a Mello Roos District is recommended to ensure long-term funding and maintenance of recreation improvements intended for public use.

7. It is acknowledged that on the project site, seasonal and tidal wetlands border developed and undeveloped upland areas at many locations. In most of the locations where uplands border tidal wetlands, the upland areas are currently developed with improvements and active marina uses. The PD District and Development Plan, as revised would permit new, minor encroachments within the 50-foot wetland setback required by General Plan Policy CON-4 and the City's Wetland Overlay (W/O) District at the following locations, as shown on the Development Plan:
 - Encroachment Area 1: Along the west spit/jetty where marina parking, pedestrian paths, picnic and viewing areas, and native buffer landscaping are proposed adjacent to and within 10 feet of tidal wetlands;
 - Encroachment Area 2: Along the east spit/jetty where marina parking, pedestrian paths and viewing area, a public restroom, a children's play area, and native buffer landscaping are proposed adjacent to and within 10 feet of tidal wetlands that are currently bordered by active marina uses and improvements; and
 - Encroachment Area 3: The east end of the marina parking lot south of the large seasonal wetlands, where a new 'hammerhead' emergency vehicle turnaround is proposed adjacent to seasonal wetlands that are currently bordered by marina parking, an active pedestrian path and marina uses and improvements.

The City Council has determined that a 50-foot development-free wetland setback must be provided in Encroachment Area 4. Area 4 encompasses the eastern border of the residential area, where a pedestrian path was 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 recommendation 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.

As proposed, the wetland setback encroachments for Areas 1, 2 and 3, as presented on the Development Plan have been reviewed by two biologists as part of the project environmental review process. Following review and consultation with California Department of Fish and Game staff, the biologists determined that the encroachments are reasonable, they adequately protect the abutting wetlands to the extent feasible, are designed to improve the current wetland buffers in these areas, and are thus consistent with Policy CON-4 in that:

- a. Under current conditions, the three encroachment areas are developed with active marina uses and improvements, which significantly encroach within 50 feet of wetlands and/or tidelands. Providing larger setbacks would not improve the function of these wetland/tidelands because of the presence and proximity of the existing uses and improvements.
- b. These encroachment areas do not have significant biological resource value given the current developed conditions and proximity to intense human activity.
- c. The California Department of Fish and Game (CDFG) staff has recommended adherence to the City's 50-foot setback for the entire project site, which is a standard policy of this State agency. The biologists have concluded that the encroachments are minor and that the project substantially adheres to the CDFG recommendation with minor exceptions, which are mitigated by the proposed 9,500 square-foot expansion of the large seasonal wetlands located at the southeast end of the project site in combination with the setback enhancements. Based on the conclusions of both biological consultants, these improvements would protect the function of the wetlands to the maximum extent feasible.
- d. While the project design, as revised, would result in the encroachment of project uses, activities and improvements that would be 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 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 this policy would not be interpreted in the abstract, but instead in relation to impact on the wetland and maintaining the function of the wetland. Thus, a structure which might be considered a "major encroachment" if: 1) built near 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 2) when the impact on the wetland is minimal or non-existent despite the proximity of the improvement; or 3) when the mitigation associated with the improvement results in an overall improvement to wetlands conditions. With respect to the project design, as revised, the City finds that no General Plan policy including Policies CON2, CON-3 and CON4 can be read alone or in a vacuum, and that these policies must be read, harmonized, and applied together as a whole with other General Plan policies. The City further finds that the plan, as amended protects, preserves, and enhances on-site wetlands to the extent feasible; that the mitigation measures undertaken with respect to such improvements will result in improvements to existing conditions, which would not be available in the absence of such required mitigation; and that all structures, paving, and other improvements and uses within 50 feet of wetlands constitute only "minor encroachments," consistent with the intent of Policy CON-4 based on the following findings:
 - 1) All homes, structures, private yards, roads and pedestrian paths would be setback a minimum of 50 feet from seasonal wetlands A, B, & C, and from all tidal wetlands in compliance with Mitigation Measure 3.1-1b. Two homes were eliminated and other homes were relocated in order to meet the 50-foot setback

objective for Wetland C. For this area, protective fencing and buffer landscaping are proposed to reduce human and domestic pet intrusion into the seasonal and tidal wetlands. Further, new marina parking previously proposed within the setback area south and west of the two large seasonal wetlands has been eliminated in the plan design, as revised.

- 2) Recreation improvements on the east and west spits are within the wetland setbacks, but proposed low level fencing and native landscaping around the perimeter of the spit will create a buffer between the upland spit and the surrounding tidal wetlands, thus creating significantly greater wetland protection than currently exists. Therefore, the wetland setback encroachments will not significantly impact the tidal wetland and are deemed to be minor.
- 3) The cul-de-sac previously proposed at the eastern end of the site to provide a turnaround area for emergency vehicles and equipment has been redesigned as a hammerhead to reduce the wetland setback encroachment associated with paving. The hammerhead design meets the emergency vehicle requirements required for public health and safety and constitutes a minor encroachment in light of the fact that hydrology and drainage improvements associated with circulation under the plan design, as revised will provide significantly greater wetland protection than currently exists.
- 4) The plan design, as revised includes improvements within the Wetland E setback area. This wetland is a man made drainage ditch, which, according to the two consulting biologists has limited habitat value.
- 5) As a whole, the plan design, as revised avoids the fill of all wetlands on the project site, with the exception to allow filling of Wetland E. Wetland setback encroachments associated with the proposed project are deemed minor because the encroachments will not significantly impact wetland resources and because potential impacts are mitigated to a less-than-significant level due to the installation of protective fencing and dense native landscape buffers. Further, such encroachments would be offset by the 9,500 square-foot expansion of Wetlands A & B.

8. As the project site is listed as a potential housing opportunity site in the San Rafael General Plan 2020, the provisions of State Government Code Section 65863(b) are applicable to development review and approval of housing density on this site. Appendix B of the San Rafael General Plan 2020 Housing Element contains the Housing Element Background Report, which includes a summary of potential housing sites (Exhibit AA). The Loch Lomond Marina is listed as a housing opportunity site in Exhibit AA, which anticipated development of this site with 99 total housing units. Due to various environmental, design, land use policy and economic considerations, the project sponsor has requested development approvals for 81 residential units, which is 18 units below the number of units used to prepare Housing Element Background Report Exhibit AA. While the development of 99 units would not be achieved on the project site, the project, as revised would not be in conflict with Citywide housing goals in that:

- a. As demonstrated through the environmental review and public project review process, this housing goal cannot be achieved without compromising project consistency with other equally important and competing goals and policies of the General Plan pertinent to marine-related, neighborhood commercial, recreation and conservation land uses. As proposed at 81 residential units, the Development Plan, as revised, represents an appropriate residential density that is achievable on the project site, while: 1) preserving a full-service marina (per Policy NH-118); 2) maintaining needed neighborhood commercial uses to serve the San Pedro Peninsula

(per Policies NH-11, NH-118 and LU-15); 3) providing needed recreation uses that would be accessible to the public (per Policy NH-118 and PR-3); and protecting and expanding existing seasonal wetlands (per Policies NH-118 and CON-2 and CON-3). With consideration of these other factors, development of up to 99 residential units on the project site would require a higher, clustered density of units of taller buildings, which would be incompatible with the surrounding neighborhood and would not achieve a mix of residential unit types encouraged by Policy NH-118. Opportunities for development of additional housing units to meet the City's housing goals can be provided at other locations in the City.

- b. Exhibit AA of the San Rafael Housing Element Background Report identified sites and areas for housing gains that exceed the City's Regional City Housing Needs Allocation (1999-2007) by 541 units, thereby accommodating the reduction of 18 units anticipated for the Loch Lomond Marina site.

The potential for development of new housing in San Rafael is being realized on sites that were not previously considered for housing opportunity in the Housing Element. The City has received development applications for removal of an existing office at 33 San Pablo Avenue, with replacement by 93 new residential condominium units, which is a site that was not included in Exhibit AA. The development of 18 fewer residential units than planned at the Loch Lomond Marina site in the Housing Element could be offset by these new units.

DIVISION 2. All development of the property rezoned to Planned Development – Wetland Overlay (PD/WO) District shall be subject to the land use regulations and limitations, development standards and other requirements outlined in Exhibit 'B' attached hereto and incorporated herein by reference. Further, adoption of this Rezoning is subject to LAFCO approval of property annexation to the service area of the San Rafael Sanitation District.

DIVISION 3. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

DIVISION 4. A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of the Ordinance shall be published within fifteen (15) days after adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for or against the Ordinance.


Albert J. Boro, Mayor

ATTEST:


JEANNE M. LEONCINI, City Clerk

The foregoing Ordinance No. 1860 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, August 6, 2007, and was ordered passed to print by the following vote to wit:

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

NOES: Councilmembers: None

ABSENT Councilmembers: None

and will come up for adoption as an ordinance of the City of San Rafael at a regular meeting of the City Council to be held on Monday, August 20, 2007.


JEANNE M. LEONCINI, City Clerk

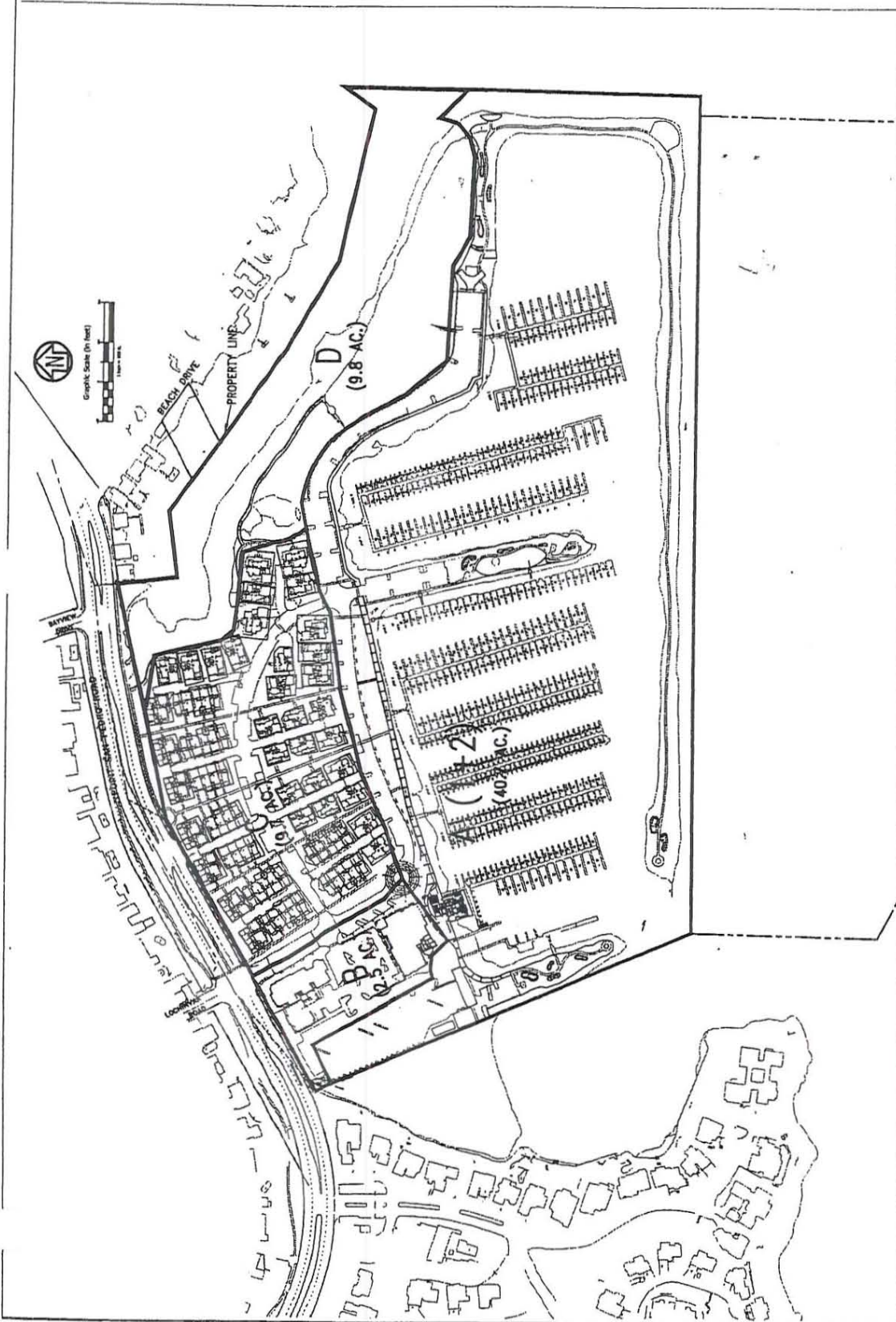
Attachments:

- EXHIBIT 'A': PD District Land Use Areas
- EXHIBIT 'A-1': Development Plan, August 6, 2007
- EXHIBIT 'B': PD District Land Use Regulations and Development Standards
- EXHIBIT 'C': Legal Property Description

c:/chlmd.pdord8-6-07

EXHIBIT A

PD-W/O DISTRICT LAND USE AREAS Z 05-002



LEGEND

PROPOSED LAND USE INDICATED
(WARRIE RELATED, RETAIL, RESIDENTIAL, & COMMERCIAL)



THE VILLAGE at LOCH LOMOND MARINA
MITIGATED PLAN
LAND USE AREAS
THOMPSON / DORFMAN PARTNERS, LLC

SAN RAPID
March
California

CSW STUBER-STROSH
ENGINEERS & PLANNERS
448 S. CLAY ST., SUITE 200
SAN FRANCISCO, CA 94108
TEL: 415 398-2800 FAX: 415 398-2808

No.	Date	Revised	Checked	Drawn	Design
1	05/05/05				

EXHB-4
Scale: 1" = 100'
Date: 05/05/05
Sheet No. 1 of 1



EXHIBIT A-1 DEVELOPMENT PLAN (Z 05-002)

THE VILLAGE AT LOCH LOMOND MARINA
 San Rafael, California August 6, 2007

Development Plan		
THOMPSON/DORFMAN PARTNERS	GUZZARDO PARTNERSHIP	BAR ARCHITECTS

EXHIBIT B
PD (PLANNED DEVELOPMENT) DISTRICT
LAND USE REGULATIONS AND DEVELOPMENT STANDARDS
FOR THE VILLAGE AT LOCH LOMOND MARINA MIXED-USE COMMUNITY

Section 1- Purpose & PD District Boundaries

This PD District serves as the zoning for the Loch Lomond Marina property. The purpose of this PD District is to promote comprehensive planning for this site, which is intended to be developed with a mix of land uses consistent with adopted General Plan policies and programs that are specific to this property. The boundaries of this PD District are described in the legal meets and bounds description presented in Exhibit C of this ordinance. Adoption of this PD District incorporates the approval of the Village at Loch Lomond Marina Development Plan (Development Plan, as amended), dated August 6, 2007, with the site plan presented in Exhibit A-1 of this ordinance and on file with the City of San Rafael Department of Community Development. The Development Plan presents a master plan for site development, providing general layout and distribution of land uses and adopted development density/intensity limits. The Development Plan also includes 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.

The Wetland Overlay (WO) District is adopted and combined with the PD District for the Loch Lomond Marina property as there are known and mapped wetland resources on the site. The regulations and provisions set forth in SRMC Chapter 13 (Wetland Overlay) District shall apply to these areas, except as modified and authorized by this PD District.

Section 2- Land Use Areas

The PD District regulations are divided into four (4) land use areas, which are depicted on Exhibit A of this ordinance. These land use areas are described as follows:

- A. Area A (1 & 2) - Marina/Water and Recreation. This area encompasses 40.7 acres of uplands and submerged tidelands sited in the southern portions of the marina site. Area A is intended for marina and marina support uses, recreation uses that are to be accessible to the public and undeveloped open waters of the San Rafael Bay.
- B. Area B - Neighborhood Commercial/Mixed-Use. This area encompasses 2.5 acres of upland sited in the northwest portion of the marina site. Area B is intended for neighborhood commercial and mixed use.
- C. Area C- Residential. This area encompasses 9.8 acres of upland sited in the north central and northeastern portions of the marina site. Area C is intended for residential use.
- D. Area D- Conservation. This area encompasses 9.8 acres of upland and submerged tidelands sited in the eastern portion of the marina site. Area D is intended for permanent open space and conservation of natural resources.

Section 3- Land Use Area Regulations and Limitations

Per the provisions of SRMC Section 14.07.020, all land uses contained within this PD District are subject to the approval of a Master Use Permit. A Master Use Permit shall be approved prior to the establishment or operation of any new use proposed with the Village at Loch Lomond Marina Development Plan. This PD District authorizes and establishes basic land uses and use regulations for the four land use areas as follows:

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- A. Area A (1) - Marina/Water Use. Permitted marina and marine-related uses include up to 517 marina berths and slips (wet boat storage) of which 10% (52) are authorized for permanent residency (liveaboards); marina support uses including but not limited to: a public boat launch, boat and marine equipment sales, dry dock boat storage, boat and marine equipment repair, kayak rental, bait sales, harbormaster's office, restrooms, laundry and showers for marina berth tenants, fueling facilities, restaurant and dining establishments, supporting yacht club, and parking for marina use including day-use (vehicle + trailer parking). Use of the submerged tidelands located outboard of the marina breakwater is limited to boating and navigable access to the marina basin.

Area A (2) - Recreation Use. The PD District permits the development of bayfront recreation use, which shall be accessible to the public (See Section 6, Property Ownership, Maintenance and Enforcement). Permitted recreation uses include but are not limited to facilities and improvements for: fishing and fish cleaning station; kayaking; picnicking; equipped play areas; hiking/walking on designated trails and paths; bird watching; and support uses including public restrooms and designated parking. Recreation areas shall be accessible for public use consistent with City-adopted park hours (dawn to dusk).

The intensity of marina and recreation land uses presented in the Development Plan is carefully planned based on parking demand for these uses. Any changes in the intensity of uses in Area A shall require an amendment to this PD District if the City Traffic Engineer determines that the use change would increase parking demand.

- B. Area B- Neighborhood Commercial/Mixed-Use. For Area B, this PD District permits the development of up to 22,250 square feet of ground floor commercial building area and up to five (5) residential units, as presented on the approved Development Plan. Neighborhood commercial land uses are intended for this area, which are to provide retail items and personal services needed on a frequent basis for vicinity residents. Permitted neighborhood commercial uses that are to be incorporated into the Master Use Permit shall be the same as those permitted land uses set forth in SRMC Title 14, Chapter 5 for the NC (Neighborhood Commercial) District. Those uses set forth in the NC District that require the approval of Use Permit may be incorporated into the Master Use Permit, where such uses are deemed appropriate for the project site and neighborhood. If such uses are not incorporated into the Master Use Permit, they shall be permitted only through the approval of a separate Use Permit. The following special use regulations and limitations apply to Area B and shall be incorporated into the Master Use Permit:

1. Retention of a full-service grocery store/market to serve the needs of the extended neighborhood.

a. *Definition.* A full-service grocery store/market is defined as a retail establishment with a minimum size of 11,000 gross square feet, offering goods and services for basic housekeeping needs. Goods and services that are offered shall include but not be limited to: fresh produce, fresh meat/fish, delicatessen goods and services; baked goods and services; wine and liquor, sundries and other goods and services typically found in a grocery store/market. Ancillary uses such as freezer and dry goods storage, and support office use shall not exceed 30% of the gross floor area of the market.

b. *Replacement requirements.* This PD District approves a Development Plan containing two phases, as described in Section 5, below. Under Phase I, the existing Loch Lomond Market located in the northeastern portion of the project site shall be

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retained and shall continue to operate to 2013 or through the duration of the current lease, whichever occurs first. Upon termination of the Loch Lomond Market lease or prior to closure or demolition of this market, a full-service replacement grocery store/market shall be constructed and open for occupancy in Area B. In the event the new, replacement grocery store/market is unsuccessful and the lease terminates, the property owner shall make a good faith effort to secure a market operator at lease rates comparable to similar San Rafael markets. If after six (6) months a market operator is not secured, alternative replacement uses (consistent with the neighborhood commercial and service uses permitted for the northern, mixed-use building in Area B), may be allowed subject to the approval of a Master Use Permit amendment by the City Council.

2. Specified hours for commercial deliveries and loading. The Master Use Permit shall include specific time limits for commercial deliveries and loading to avoid conflicts with marina use function and minimize nuisance impacts to residential flats.
- C. Area C- Residential Use. For Area C, this PD District permits the development of up to 76 residential units under for build-out of this area. The permitted uses shall include: detached single-family residential, detached single-family residential cottages, and attached town homes, as presented on the approved Development Plan. The following use regulations apply to Area C and shall be incorporated into the Master Use Permit:
1. Ancillary Uses. Permitted, ancillary uses are limited to home occupations and second dwelling units located on residential lots with a lot area of 5,000 square feet or greater, as regulated by SRMC Title 14 (Zoning).
 2. Residential Parking. Residential guest parking, as shown on the Development Plan shall be for residents and guests only. This guest parking is not approved for use by visitors of Area A (Marina/Water/Recreation) or Area B (Neighborhood Commercial/Mixed Use). Use enforcement of this guest parking shall be the responsibility of the Owners' Association (see Section 6, below). Residential land use regulations to include: deference of accessory use regulations to SRMC Section 14.16, defer to CC &Rs for regulations not enforced by the City (e.g., prohibition on using garages for other than storing vehicles; enforcement of guest parking use).
 3. Continued Operation of Loch Lomond Market. In Area C, the existing Loch Lomond Market shall continue as a permitted use to 2013 or through the duration of the current lease, whichever occurs first. Upon closure and demolition of Loch Lomond Market in Phase II, this use shall no longer be permitted in Area C.
 4. Permitted Filling of Small Drainage Channel (Wetland E). The southeast portion of Area C contains a small drainage channel/seasonal wetland that is approximately 278 square feet in size. The PD District permits the filling of this wetland in that it is geographically isolated from the other larger, seasonal wetlands located on the project site; is of limited biological value; and would be offset by the wetland mitigation requirements approved with this PD District (9,500 square-foot expansion of seasonal wetlands). Please refer to the wetland mitigation plan monitoring requirements set forth in Section 7, below.

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D. Area D- Conservation Use. For Area D, this PD District establishes a conservation area intended for permanent open space use. No development is permitted in this area, except for the installation and maintenance of improvements necessary to achieve conservation goals, improvements for flood control purposes, and improvements authorized in subsection 2, Limited Public Access. The following use regulations shall apply and shall be incorporated into the Master Use Permit:

1. Maintaining Seasonal Wetlands. The wetlands contained in Area D (Wetlands A, B, and C) shall function as seasonal wetlands that are not subject to tidal action during dry months. The protective levee that exists along the eastern shoreline of Area D shall be preserved and maintained. This area is within the Wetland Overlay (WO) District and is subject to the wetland mitigation plan monitoring requirements set forth in Section 7, below.
2. Limited Public Access. Public access in the form of pedestrian paths, trails and graded pad for bird watching and viewing shall be limited to those areas shown on the approved Development Plan. Public access and pedestrian use along the eastern levee shall be prohibited.

Section 4- Property Development Standards and Other Site Development Regulations

A. Development Standards. The property development standards for each land use area are presented in the following table. These standards include limitations on building height and lot coverage, as well as minimum requirements for building setbacks and parking.

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Development Standards					
Area	Building Height Limit (top of roof peak measured from finished grade)	Setbacks (Minimum)	Lot Coverage (Maximum)	Parking (Minimum)	Accessory Structures
A	30 feet	As shown on Development Plan.+	As shown on Development Plan.+	259 parking spaces as shown on Development Plan.* Reserve a minimum of 12 spaces for daytime use by public for recreation use.	Defer to SRMC Section 14.16.020
B	35 feet++	As shown on Development Plan.+	As shown on Development Plan.+	One parking space per 250 gross square feet of commercial area Two parking spaces per residential unit + one guest parking space.	Defer to SRMC Section 14.16.020 Loading and service area required for commercial use per SRMC Section 14.18.050A.
C	As shown on the approved architectural plans+++ House A: 27'3" House B: 26'4" House C: 29'6" House D: 24'6" Cottage A: 24'0" Cottage B: 24'0" Cottage C: 24'0" Town home A: 29'4" Town home B: 29'8" Town home C: 29'8" Town home D: 29'8"	As shown on Development Plan.+/**	As shown on Development Plan, except 10% coverage allowance for accessory structures in private rear and side yards for the detached single-family and single-family cottage units.+	Two parking spaces per residential unit + guest parking spaces as shown on the Development Plan.	Defer to SRMC Section 14.16.020.
D	N.A.	N.A.	N.A.	N.A.	None permitted as shown on the approved Development Plan.

- + See Section 8 for the review and action process required for additions, improvements and modifications to buildings and structures
- ++ 35'6" height approved for tower element on southern, one-story commercial building, as depicted on the architectural plans of the Development Plan
- +++ House Plan D (detached single-family) approved for western marina front Lots 29, 30, 33 and 34 as shown on the Vesting Tentative Map TM04-001; Cottage Plan B approved for Lots 3 and 4 along the Point San Pedro Road frontage; Town home Plans C and D approved for two, 5-unit town home buildings located east of project entrance
- * Parking amount based on marina parking demand study. Any adjustment or changes in the amount of marina parking will require a parking demand study.
- ** For Area C, no minimum residential lot area is specified given the mix in unit types. The residential lot areas depicted on the Development Plan shall be the same as the lot areas approved through the subdivision mapping process.

B. Compliance with Green Building Ordinance. Development and improvements proposed within this PD District shall comply with the regulations set forth in City-adopted Green Building Ordinance, set forth in SRMC Section 14.16.275.

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- C. Compliance with City Affordable Housing Requirements. Of the total residential units approved and developed within this PD District, a minimum of 20% shall be reserved for sale to households of low- and moderate-income, consistent with the affordability mix requirements set forth in SRMC Title 14 (Zoning). The affordability standards, selection of units and provisions for re-sale shall be established in an agreement between the City, Marin County Housing Authority and the developer. The final agreement shall be executed at the time of and recorded with the Final Subdivision Map.
- D. Standards for Seasonal Wetlands and Tidelands. This PD District authorizes the approval of a wetland setback of less than 50 feet at the following locations, as shown on the Development Plan:
- Encroachment Area 1: Along the west spit/jetty where marina parking, pedestrian paths, picnic and viewing areas, native buffer landscaping and fencing are proposed adjacent to and within 10 feet of tidal wetlands;
 - Encroachment Area 2: Along the east spit/jetty where marina parking, pedestrian paths and viewing area, a public restroom, a children's play area, native buffer landscaping and fencing are proposed adjacent to and within 10 feet of tidal wetlands that are currently bordered by active marina uses and improvements;
 - Encroachment Area 3: The east end of the marina parking lot south of the large seasonal wetlands, where a new 'hammerhead' emergency vehicle turnaround is proposed adjacent to seasonal wetlands that are currently bordered by marina parking, an active pedestrian path and marina uses and improvements.

Improvement to and use of these areas shall be limited to those presented on the approved Development Plan. The PD District does not approve wetland setback reductions in the following locations:

- Along the eastern border of the residential area (Area C). In this location, full compliance with the 50-foot, development free wetland setback standard is required.
- Wetland E, which is located in the southeastern border of the residential area (Area C). In this location three residences, sidewalks, alley and street improvements are proposed immediately adjacent to Wetland E, a small, 278 square-foot drainage ditch/seasonal wetland. As Wetland E is permitted to be filled by the conditions of this PD District, approval of a reduced wetland setback is not necessary.

Section 5- Project Phasing

- The PD District approves a two-phased Development Plan, which is linked to the lease for the existing Loch Lomond Market and monitoring requirements for specific elements of the project, as described in Section 7, below.

Section 6- Property Ownership, Maintenance & Enforcement

- A. Property Ownership. The entire Village at Loch Lomond Marina property shall be retained in private ownership. However, public access easements shall be required and offered to the City and appropriate agencies through the subdivision mapping process for the following areas:
1. Public pedestrian and vehicle access through and along the primary site entrance extending from Point San Pedro Road to the marina front boardwalk and encumbering the public plaza located between the neighborhood commercial building and yacht club/restaurant.
 2. Public pedestrian and/or vehicle access along the marina-front access road, marina green, west and east spits/jetties and breakwater.

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3. Public parking easements over 12 parking spaces sited along the west and east spits/jetties and the southeast terminus of the marina parking lot (hammerhead) for daytime public use.
4. Public pedestrian access easements along the pedestrian paths in Area C commencing at Point San Pedro Road and extending to the marina front.
5. Public pedestrian access along the bird viewing pad in Area D.
6. An easement through and across the northwest corner of the project site for pedestrian and maintenance vehicle access to the contiguous San Pedro Cove open space.
7. Easements as determined necessary by the City Department of Public Works, the San Rafael Sanitation District and other agencies and services for access to infrastructure and utility improvements.

B. Property Maintenance and Enforcement. The responsibility for long-term property maintenance shall be addressed through the following, which shall be required as a condition of Tentative Subdivision Map approval:

1. The formation of an Owners' Association encompassing the property owners of Areas A-D. The Owners' Association shall be responsible for maintenance of all commonly owned areas including but not limited to streets, sidewalks, common landscaped areas, parking and parking lots. The marina facilities and marina breakwater in Area A shall be maintained by the marina property owner. All enforcement of maintenance shall be addressed in the CC & Rs recorded with the formation of the Owners' Association.
2. The project sponsor shall agree to the City's formation of a Mello-Roos District for the purpose of funding long-term maintenance of recreation facilities that would be accessible to the public and the seasonal wetlands and wetland buffer in the conservation area (Area D). The Mello-Roos District shall cover funding and maintenance of the marina green and boardwalk, recreation improvements and public restrooms on the west and east spits/jetties and the entrance to the breakwater.

C. Gated Community Prohibited. While all property within this PD District is to be retained in private ownership, the requirements for public access through the site and to the Bay front prohibit this development as a 'gated community.' This PD District requires that all roads and pedestrian paths intended for public access and/or use shall remain open and accessible to the public (no security gates approved or permitted).

Section 7- Review and Monitoring of Specific Project Improvements

The specific measures listed below will be implemented under Phase I. The Master Use Permit shall require the monitoring of these measures through Phase II:

A. Wetland Mitigation Plan. It shall be the obligation of the project proponent/developer to implement the Wetland Mitigation Plan required as an environmental mitigation measures set forth in the project Final Environmental Impact Report (FEIR) and Mitigation Monitoring and Reporting Program (MMRP) (FEIR Mitigation Measures 3.7-1c and 3.7-8b). This mitigation plan, which includes the expansion of seasonal wetlands by 9,500 square feet, is required to be monitored for a period of 10 years following implementation. Conditions of Master Use Permit approval shall require that the first monitoring report be submitted to the City within five (5) years of plan implementation or prior to the construction of Phase II, whichever occurs last.

EXHIBIT B
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- B. Monitoring of Marina and Recreation Use Parking. The amount of parking for Area A (marina/water and recreation use area) is based on a study of parking demand, rather than strict application of or compliance with the minimum City parking code requirements. The Development Plan approved with the adoption of this PD District includes a 'parking reserve' for Area A (marina and recreation use areas), which consists of several landscaped areas on the project site where parking can be added, if deemed necessary. Similarly, the Development Plan includes a 'landscape reserve' for Area A, which consists of marina parking, which can be converted to landscaping in the event it is determined that there is a parking surplus. Twelve (12) marina parking spaces are required to be designated for public use of the park and recreation areas and 52 assigned marina parking spaces are assigned for the 52 liveaboard boat tenants. In addition, 16 dry dock boat storage spaces are required (occupying 8 vehicle + trailer spaces) to be provided in the marina day use parking area. Marina and recreation use parking shall be administered and monitored through the approval of a Master Use Permit, required for implementation of this PD District. The Master Use Permit shall require that within two (2) years of project completion, a licensed traffic engineer be hired and funded by the project sponsor or project Owners' Association to prepare an updated parking demand study of marina and recreation parking use. The updated parking study shall be submitted to the Community Development Director to determine if additional parking is needed to meet the marina and recreation use demands or if a reduction in parking is warranted. If marina and recreation use parking demand has increased, the project sponsor or Owners' Association shall be required to utilize the parking reserve. Alternatively, if marina and recreation use parking demand has decreased, the project sponsor or Owners' Associations shall be required to implement the landscape reserve.
- C. Monitoring Primary Project Access, Neighborhood Traffic and Need for Second Project Access. The Development Plan is approved with a single vehicle access at the Point San Pedro Road/Lochinvar Road/Loch Lomond Drive intersection and a separate emergency vehicle access within Area C (Residential Area). The emergency vehicle access shall be designed to allow for future conversion to a full-service, second access for the project site. The Master Use Permit required to implement this ordinance shall set forth the following monitoring measures and requirements for improvements that would occur after completion and occupancy of the project:
1. Initial monitoring of the main project access by the City Traffic Engineer following occupancy at project build-out.
 2. During the first four (4) years following project build-out, the City Traffic Engineer shall 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.
 3. Four (4) years following occupancy at project build-out, a licensed traffic engineer shall be hired and funded by the project sponsor or project Owner's Association to prepare an updated traffic study. This study shall assess level of service conditions, general use and observations of potential by-pass traffic/diversions through the contiguous Loch Lomond neighborhood. Results of this assessment may require the implementation of off-site traffic calming measures in the Loch Lomond neighborhood and/or the conversion of the emergency vehicle access to a full-service second access for the project site, subject to the approval of the City Council.
 4. In order to ensure that adequate funds are available to implement potential future improvements, the posting of security shall be required through conditions of approval of the Tentative Subdivision Map.

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5. Independent of the monitoring requirement, the project Owner's Association can file a request to the City to convert the emergency vehicle access to a full-service, second access for the project site, subject to the approval of the City Council.

D. Mitigation Monitoring Fee. This PD District is subject to compliance with and implementation of the Mitigation Monitoring and Reporting Program (MMRP), which has been approved by the City. 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.

Section 8- PD District Amendments and Modifications

This PD District shall expire 18 months from the date of adoption unless subsequent planning permit approvals (Master Use Permit, Environmental Design Review Permit) are secured, remain valid and the project site is developed.

Any modifications to the Development Plan, additions to structures or improvements within this PD District shall be reviewed to determine if such addition/improvement is major or minor. If such modifications, additions or improvements are determined to be minor by the Community Development Director, they can be authorized or approved without a modification or amendment to this PD District.

Any modifications to Development Plan or regulations set forth in this ordinance that are determined to be major by the Community Development Director shall require an amendment to this PD District. If an individual property owner within this development proposes an amendment to this PD District, such application shall be accompanied by a letter or written statement from the Owner's Association, representing all property owners within this district, which authorizes the filing of this application.

C:/lchlmd.PD-ExhibitB(7-07)

EXHIBIT C

Date: June 7, 2007
File: 8-270-065

Z 04-002

THE VILLAGE AT LOCH LOMOND MARINA MEETS AND BOUNDS DESCRIPTION OF PROPERTY TO BE REZONED

Beginning at the northwest corner of the property, thence heading North $60^{\circ}59'16''$ East, a distance of 781.01 feet;

thence North $78^{\circ}16'52''$ East, a distance of 519.30 feet;

thence North $76^{\circ}27'50''$ East, a distance of 90.10 feet;

thence South $07^{\circ}07'16''$ East, a distance of 150.00 feet;

thence North $82^{\circ}52'44''$ East, a distance of 170.00 feet;

thence South $54^{\circ}33'42''$ East, a distance of 504.52 feet;

thence South $59^{\circ}32'42''$ East, a distance of 258.51 feet;

thence South $77^{\circ}32'42''$ East, a distance of 388.91 feet;

thence North $36^{\circ}57'18''$ East, a distance of 92.75 feet;

thence South $01^{\circ}09'06''$ West, a distance of 905.70 feet;

thence North $88^{\circ}50'54''$ West, a distance of 50.00 feet;

thence South $01^{\circ}09'06''$ West, a distance of 25.00 feet;

thence North $88^{\circ}50'54''$ West, a distance of 2065.00 feet;

thence North $23^{\circ}05'53''$ West, a distance of 1025.98 feet; back to said Point of Beginning.

The rezoned area encompasses approximately 63 acres.

End of Description