



AGENDA

**SAN RAFAEL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, September 24, 2019, 7:00 P.M.
COUNCIL CHAMBERS, CITY HALL, 1400 FIFTH AVENUE
SAN RAFAEL, CALIFORNIA**

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

URGENT COMMUNICATION

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

CONSENT CALENDAR

1. Minutes, August 27, 2019
2. Minutes, September 10, 2019

PUBLIC HEARING

3. **999 3rd Street (BioMarin R&D building / Whistlestop Senior Center / Senior Housing) –** Public hearing on Draft Environmental Impact Report (EIR) for a request for approval of two 72-foot tall, four-story Research and Development buildings on a 133,099 sq. ft. parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN: 011-265-01; Second/Third Mixed Use (2/3 MUE) Zone; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area. Project Planner: Sean Kennings

**DIRECTOR'S REPORT
COMMISSION COMMUNICATION
ADJOURNMENT**

- I. Next Meeting: October 15, 2019
- II. I, Anne Derrick, hereby certify that on Friday, September 20, 2019, I posted a notice of the September 24, 2019 Planning Commission meeting on the City of San Rafael Agenda Board.

- Any records relating to an Agenda Item, received by a majority or more of the board or commission less than 72 hours before the meeting, shall be available for inspection in the CDD Dept, at 1400 Fifth Ave, Third Floor, San Rafael, CA
- Sign Language and interpretation and assistive listening devices may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org, or using the California Telecommunications Relay Service by dialing "711" at least 72 hours in advance. Copies of documents are available in accessible formats upon request.
- Public transportation to City Hall is available through Golden Gate Transit, Line 22 or 23. Para-transit is available by calling Whistlestop Wheels at (415) 454-0964.
- To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products. To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.

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

In the Council Chambers of the City of San Rafael, August 27, 2019



Regular Meeting

San Rafael Planning Commission Minutes

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

CALL TO ORDER

Present: Barrett Schaefer
Sarah Loughran
Shingai Samudzi
Jeff Schoppert
Aldo Mercado
Mark Lubamersky
Berenice Davidson

Absent: None

Also Present: Raffi Boloyan, Planning Manager
Alan Montes, Assistant Planner
Steve Stafford, Senior Planner

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

CONSENT CALENDAR

1. Minutes, August 13, 2019

Jeff Schoppert moved and Berenice Davidson approve Minutes as presented. The vote is as follows:

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

PUBLIC HEARING

2. 949 Del Presidio Blvd. (Chevron Gas Station) – Requests an Environmental and Design Review Permit, Use Permit, Sign Program, and Major Sign Exception for the reconstruction of the service station and convenience store. The project includes a new 2,964 square-foot minimart, fuel canopy with partial illumination, site signage including a digital price ID sign, 4 fuel pumps, 18 parking spaces (including 8 fueling spaces), and revised landscaping; APN: 175-322-02; General Commercial (GC) District; Chevron USA INC., owner; Gary Semling of Stantec Architecture, applicant; File Nos.: ED18-105, UP18-044, SP19-002 and SE19-001. Project Planner: Alan Montes

Staff Report

Berenice Davidson moved and Mark Lubamersky seconded to approve project as presented. This motion failed.

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

Barrett Schaefer moved and Aldo Mercado seconded to approve project as presented with changes to the conditions as follows:

- 1) No fascia lighting on the Canopy
- 2) Chevron "text" ok to be lit

The vote is as follows:

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

- 3. 703 – 723 Third St. and 898 Lincoln Avenue – Request for an Environmental and Design Review Permit, Use Permit and Lot Line Consolidation for the redevelopment of two contiguous Downtown parcels, currently developed with 15,000 sq. ft. of commercial space with a new, 6-story, 73 ft tall, multifamily residential building with 120 rental units above 121 garage parking lift spaces and 969 sq. ft of commercial retail space. The project includes requests for height and density bonuses, and a front setback waiver; APNS: 011-278-01 & -02; Second/Third Mixed Use East (2/3 MUE) District Zones; Wick Polite of Seagate Properties, Inc., Applicant; 703 Third Street LP, Owners; Case No's: ED18-018; UP18-008, LLA18-001. Project Planner: Steve Stafford**

Staff Report

Aldo Mercado moved and Shingai Samudzi seconded to approve project as presented. The dissenting votes were the following: Commissioner Schaeffer did not like the Gateway Element and Commissioner Lubamersky did not like the height of the building. The vote is as follows:

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

DIRECTOR'S REPORT
COMMISSION COMMUNICATION
ADJOURNMENT

ANNE DERRICK, Administrative Assistant III

APPROVED THIS ____ DAY OF _____, 2019

Sarah Loughran, Chair

In the Council Chambers of the City of San Rafael, September 10, 2019



**Regular Meeting
San Rafael Planning Commission Minutes**

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

CALL TO ORDER

Present: Barrett Schaefer
Jeff Schoppert
Berenice Davidson

Absent: Shinghai Sumadzi
Mark Lubamersky
Sarah Loughran
Aldo Mercado

Also Present: Raffi Boloyan, Planning Manager
Alicia Giudice, Senior Planner
Stefan Pellegrini, Project Manager from Opticos

PLEDGE OF ALLEGIANCE

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

URGENT COMMUNICATION

CONSENT CALENDAR

1. Minutes, August 27, 2019

Due to the fact that there was no quorum to vote on this item, there was no vote and no action. This item was continued.

PUBLIC HEARING

2. Presentation on the Options Report for the Downtown Precise Plan.

[Staff Report](#)

Stefan from Opticos gave a presentation. Individual Commissioners provided comments but no action was taken.

DIRECTOR'S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

ANNE DERRICK, Administrative Assistant III

APPROVED THIS ____ DAY OF _____, 2019

Jeff Schoppert, Acting-Chair



SAN RAFAEL

THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: September 24, 2019

Agenda Item: 3

Case Numbers: ED18-087, ZO18-003, ZC18-002, UP18-034, SP18-006, S18-001, DA19-001

Project Planner: Sean Kennings, Contract planner (415) 533-2111

REPORT TO PLANNING COMMISSION

SUBJECT: 999 3rd Street (BioMarin R&D building / Whistlestop Senior Center / Senior Housing) – Public hearing on Draft Environmental Impact Report (EIR) for a request for approval of two 72-foot tall, four-story Research and Development buildings on a 133,099 sq. ft. parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN: 011-265-01; Second/Third Mixed Use (2/3 MUE) Zone; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area.

EXECUTIVE SUMMARY

The City of San Rafael is the lead agency responsible for overseeing environmental review for a project proposing the development of two 72-foot tall, four-story Research and Development buildings on a 133,099 sq. ft. parcel, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building. The required and submitted applications for Planning entitlements include: General Plan Amendment (ZO18-003), Planned Development (PD) Amendment (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Development Agreement (DA19-001), and Sign Program amendment (SP18-006).

In February 2019, the City released a Notice of Preparation (NOP) for an Environmental Impact Report (EIR). The NOP process established that the scope of the project would have potential impacts to the following topical areas: *Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, cumulative effects and a reasonable range of alternatives.*

The NOP also made a preliminary determination that the following topic areas would not require discussion in the EIR: *Agriculture and Forestry Resources, Mineral Resources, and Population and Housing.*

The Commission conducted a public hearing on the NOP on March 12, 2019 and established that the scope of the EIR should evaluate the formerly identified topics, based upon the NOP and public comments. Since March, the City's environmental consultant, Amy Skewes-Cox has prepared a Draft EIR (DEIR) and released the DEIR for a public review and comment period, commencing on August 9, 2019 and set to conclude on September 24, 2019 with this Commission meeting.

The DEIR concludes that the majority of the project's impacts can be reduced to a less-than-significant level, if recommended mitigation measures are implemented. However, the DEIR also concludes that the project's impacts to "Land Use and Planning" and select "Transportation" items would remain significant and unavoidable. Therefore, when the project merits come before the Commission at a later date for final consideration (along with the Final EIR), the Commission will be required to adopt a statement of overriding

considerations if they choose to approve the project as proposed. A finding of overriding considerations means that the project’s benefits (social, economic, technological or other) are found to outweigh the significant, unavoidable transportation and circulation impacts.

Consistent with California Environmental Quality Act (CEQA), the DEIR was released for a 45-day public review period on August 9, 2019. The purpose of this public hearing is to accept comments on the adequacy of the DEIR. Comments should focus on the environmental issues and project alternatives evaluated in the DEIR, not on the merits of the project, which will be the subject of a future public hearing before the Planning Commission.

RECOMMENDATION

It is recommended that the Planning Commission take the following action:

1. Accept public testimony on the DEIR; and
2. Direct staff to prepare a Final Environmental Impact Report (FEIR)/Response to comments.

PROPERTY FACTS

Address/Location:	999 Third St	Parcel Number(s):	011-265-01
--------------------------	--------------	--------------------------	------------

Property Size:	133,099 (3.05 acres)	Neighborhood:	Downtown
-----------------------	----------------------	----------------------	----------

Site Characteristics			
	General Plan Designation	Zoning Designation	Existing Land-Use
Project Site:	Second/Third St. Mixed-Use (2/3 MU)	Second/Third St. Mixed-Use East (2/3 MUE)	Vacant/surface parking
North:	2/3 MU/ 4SRC	2/3 MUE	Parking structure / commercial
South:	2/3 MU/ P/QP	2/3 MUE / P/QP	Parking structure / PG&E corp yard. Multi-family residential
East:	2/3 MU	2/3 MUE	Commercial
West:	2/3 MU	2/3 MUE	Commercial / office

Site Description/Setting:

The project site is comprised of a 133,900 sq. ft. parcel. The project site has four frontages: Third St. on the north and Second St. to the south, Lindaro St. on the east, and Brooks St. to the west. It is a relatively flat (<1% average cross-slope) and located within the Downtown Parking District. It is currently undeveloped, as two, multi-story office buildings (PG&E) were recently demolished. The remaining project area is currently a surface parking lot.

BACKGROUND

The following is a summary of the City’s review of this project to date

Conceptual Review/Pre Application

- Design Review Board - Conceptual Review, February 6, 2018 ([Video](#) and [Staff Report](#))
- Planning Commission - Conceptual Review, February 27, 2018 ([Video](#) and [Staff Report](#))

Formal Application

- Planning Commission - Notice of Preparation Hearing, March 12, 2019 ([Video](#) and [Staff Report](#))

- Planning Commission Study Session, May 14, 2019 ([Video](#) and [Staff Report](#))
- Design Review Board, June 18, 2019 ([Video](#) and [Staff Report](#))
- Design Review Board, August 20, 2019 ([Video](#) and [Staff Report](#))

PROJECT DESCRIPTION

The applicant, BioMarin, intends to develop the parcel to increase laboratory and research and development space. The proposed buildings would satisfy the R&D and lab functionality for BioMarin in conjunction with the existing SRCC campus to the south of the project site. Preliminary details of the proposal are reflected in the design package

The initial applications that will be required would include:

- General Plan text and map amendment to 1) modify Exhibit 6 FAR Maps to a new blended rate of 0.90 for SRCC site and the BioMarin portion of the 999 3rd St site, and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site
- Planned Development Rezoning to create one contiguous PD District such that 999 3rd Street would be included with the San Rafael Corporate Center campus (currently PD 1936), including specific parking standards for the entire campus, development standards and land use allowances.
- Development Agreement to vest the approvals for an extended period of time.
- Major Environmental and Design Review Permit, for the new R&D and senior residential buildings;
- Use Permit to allow: 1) Residential uses in a commercial (2/3 MUE) zoning district; and 2) A Parking Modification to allow: A) The reduction in on-site parking, from 293 required parking spaces to 29 proposed parking spaces using the proposed “blended ratio”; and

The proposed project would be constructed by two different entities in different phases, but will be entitled as one contiguous development site and includes the following:

- Expansion of the existing Planned Development (PD) zoning designation that applies to the SRCC to encompass the 999 3rd St. property. Within the expanded PD, BioMarin is requesting a General Plan amendment to allow for a new FAR/development intensity to govern the entire SRCC as one project site.
- 15,000 sq. ft. of the 999 3rd Street property will be allocated to Whistlestop/Eden Housing project in the northwest corner of the subject property for development of a senior center and senior affordable housing in a six-story building which includes an Healthy Aging Campus on the first and second floors (approx. 18,000 sf) and 67 affordable residential units on the third through sixth floors.
- The remaining 118,100 sq. ft. of the site will be developed as an extension of the Bio Marin campus that is currently located at the SRCC. Bio Marin proposes to develop a total of approximately 207,000 sq. ft. of research and development (R&D) laboratories and office space (split about equally between the two uses) in two four-story buildings. The ground floor will also house amenities to support the BioMarin campus, which may include: lobbies, an auditorium, conference rooms, a small cafe, and dining space. A useable roof top deck (above the ground floor between the two buildings) is proposed for employee use as noted in the concept drawing package.
- As part of the amended SRCC PD, BioMarin is requesting a height bonus of 20-ft (above the 54-ft maximum) for the 999 3rd Street property to allow construction of research laboratory buildings. As laboratory buildings require additional floor to floor space to support the required infrastructure, BioMarin is seeking the minimum required additional height for this development. BioMarin is

requesting the height bonus pursuant to the provision of senior housing, a privately owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and the donation of funds for development of bike lanes in accordance with Section 14.16.190 of the Zoning Ordinance.

- The Whistlestop/Eden Housing portion of the project would include a requested 4-ft height increase as a concession consistent with the State Density Bonus Law.
- The Whistlestop/Eden Housing project is requesting three concessions under the State Density Bonus law pursuant to providing at least 30% affordable housing. The project requests the following three concessions:
 - Increased Density bonus to allow up to 67 units;
 - Increased height from allowed 66' to 70'.
- Whistlestop/Eden Housing is proposing no on-site parking for residents of the senior housing portion of the development. Pursuant to California Government Code Section 65915 (e)(1) and (2), the request to reduce on-site parking to one space is an additional development standard reduction.
- Overall site parking at ratios appropriate to the proposed uses. Parking ratios for specific uses, such as R&D laboratories, are not specified in the Zoning Ordinance. Proposed parking ratios will be based on industry standards and utilization surveys and evaluated through the PD rezoning and Use Permit.

New BioMarin R&D Buildings:

Use: BioMarin proposes two 72-foot tall four-story research and development buildings connected by a common ground floor “amenity” space with rooftop garden/open area. Each R&D building would include a combined office/laboratory spaces on the ground floor with three stories of laboratory spaces above.

Site Plan: The proposed project would provide a setback and green space along Lindaro to enhance pedestrian experience and strengthen the entry to the site. A visitor drop-off and parking area at the corner of 2nd and Lindaro is designed to provide a clear entry to the BioMarin buildings. An architectural cantilever feature for the north R&D building at the corner of Lindaro and Third Street would create a “Front Porch” of open space used for employee activities. This open area is designed to connect the site to downtown. The North BioMarin building would include upper floor setback to provide natural light and separation for residents of the senior housing. Both buildings would be setback from 2nd and 3rd Streets to enhance pedestrian experience and provide a landscaped street edge. A proposed rooftop deck between the two R&D buildings (above the first floor) would be used for employee gatherings and daytime activities including seating for eating periods. The R&D buildings would be oriented with the long east/west axis of the project site to maximize energy savings.

Architecture: The design of the building emphasizes corner and cantilever elements that frame the site. The design intent is to create a state of the art research and development facility in the heart of San Rafael office district. Buildings would be clad with glass, with white metals mullions and screens, to maximize natural light and views outward from the site. Window overhangs on south facades would create shading over windows and glass areas. An architectural “shading skin” would be proposed on east and west facades to protect these areas from heat gain.

The proposed buildings are located within the 2/3 MUE District and has a mandated building height limit of 54-ft for the primary structure as measured by 1997 UBC standards. The preliminary design includes extra tall floorplates of 17-ft to accommodate the specific needs of laboratory spaces for BioMarin. Therefore, the proposed design is requesting a height extension to 72-ft. Additional architectural features including mechanical enclosures and towers are designed to extend above the 72-ft height limit to a

maximum of 85-ft. This additional height is not counted in the requested height bonus. Rooftop equipment would be screened according to City of San Rafael requirements.

Landscaping: The BioMarin landscape plan would introduce new landscaping site features, paving, ground covers, and trees for continuity throughout the project site. Although preliminary in nature, the plant palette would be required to consist of trees, shrubs, ground covers, grasses and perennials that conform to Marin Municipal Water District requirements, the California water efficient landscape ordinance (WELO) and Marin County Storm Water Pollution Prevention Plan (MCSTOPPP) practices. Bioretention areas appear to be proposed in pedestrian areas in the Lindaro street plaza. The tree palette would be a continuation of street and shade trees consistent with the SRCC campus development and include zelkova and ginkgo varieties.

Lighting: The lighting plan included in the application details specific light fixtures for wayfinding and security purposes. Light fixtures would be required to comply with San Rafael standards for nighttime glare. The photometric study regarding light exposure included in the formal application is indicated on Sheet L5.

Parking: The R&D buildings are proposed to be constructed in two phases. After completion of Building “A”, BioMarin would provide approximately 70 parking spaces at the south side of the project site. After completion of Building “B” in Phase II, the project would include only 29 spaces located in the southwest and southeast corners of the site. The Project is within the downtown business parking district which exempts parking requirements for the first 1.0 FAR. Per the San Rafael Municipal Code Section 14.18.040, parking requirements for laboratory uses are not specifically listed. Assuming general office use for the project site, the proposed project would require a 3.3/1000 (3.3 auto spaces to 1,000 square feet of occupied space) requirement for general office. The BioMarin portion of the project would entail 207,000 SF of total R&D/lab space, but with the 1.0 FAR reduction for the Downtown Parking District, would be required to provide parking for 88,901 sq ft.

Lot Size	Project Size	1.0 FAR Exemption
Total Site: 133,099 sq. ft.	225,000 (18,000 sq. ft. for Whistlestop; 207,000 for BioMarin)	225,000 sq. ft. – 133,099 sq. ft. (1.0 FAR) = 91,901 sq. ft.
BioMarin Portion: 118,099 sq. ft. (minus 15K sq ft for Whistlestop)	207,000 sq. ft. (BioMarin)	207,000 sq. ft. – 118,099 (sq. ft. 1.0 FAR) = 88,901 sq. ft.
Whistlestop Portion: 15,000 sq. ft.	18,000 sq. ft. (Whistlestop/Eden)	18,000 sq. ft. – 15,000 sq. ft. (1.0 FAR) = 3,000 sq. ft.

As such, the proposed R&D buildings would require approximately 293 surface parking spaces. However, BioMarin is presenting a ratio based on evaluation of the existing and proposed uses that would “blend” the parking requirements for the entire site. For example, laboratory spaces tend to be used by on-site staff who also have office space. BioMarin is requesting that these spaces should not be double-counted pursuant to the San Rafael Municipal Code requirements. To ensure no double counting of parking needs while offering an overall conservative amount of parking, BioMarin proposes the following parking ratios for each building type:

- Office: 3.0 spaces per 1,000 gsf
- R&D Labs: 1.5 space per 1,000 gsf
- Amenities: 1.0 space per 1,000 gsf

Per the applicant’s project description, and based on the blended parking ratio request, the following table documents the proposed parking for the project site and the SRCC.

Table 9: Proposed Parking for Expanded PD, Full Build-out of BioMarin Campus

Item	Building Square Footage (gsf)				Parking			
	Office	Lab	Amenities	Total	Office	Lab	Amenities	Total
Parking Proposed (per 1,000 gsf)					3.0	1.5	1.0	
Required Parking								
Existing Buildings								
750 Lindaro Street (Building A)	82,842	-	5,000	87,842	248	-	5	253
781 Lincoln Avenue (Building B)	71,039	-	-	71,039	213	-	-	213
770 Lindaro Street (Building C)	78,360	-	5,000	83,360	235	-	5	240
790 Lindaro Street (Building D)	71,919	-	-	71,919	216	-	-	216
791 Lincoln Avenue (Building E)	-	86,540	-	86,540	-	130	-	130
Future Development								
755 Lindaro Street	72,396	-	-	72,396	217	-	-	217
999 3rd Street (Building A)	77,000	-	33,000	110,000	231	-	33	264
999 3rd Street (Building B)	-	97,000	-	97,000	-	146	-	146
Subtotal	453,556	183,540	43,000	680,096	1,360	276	43	1,679
999 3rd Street Parking Exemption ¹	(43,697)	(55,507)	(18,896)	(118,099)	(131)	(83)	(19)	(233)
Total Required Parking	409,859	128,033	24,104	561,996	1,229	193	24	1,446
Parking Supply²								
Existing Parking								1,346
755 Lindaro Surface Lot ³								(68)
788 Lincoln Garage (Phase II)								256
788 Lincoln Surface Lot								26
999 3rd Street Surface Lot ⁴								29
Total Parking Supply								1,589
Parking Surplus								143

Notes:

1. Downtown Parking District exempts first 1.0 FAR from parking requirements. See Table 10 for details on calculation.
2. For calculations of existing parking supply, see Table 6.
3. As a result of the construction of the office building at 755 Lindaro, existing parking is reduced by 68 spaces, leaving 185 surface lot parking spaces.
4. After construction of Building B on 999 3rd Street, surface parking is reduced from 75 spaces to 29 spaces.

The SRCC at full build-out, would be owned and operated by one tenant, BioMarin. The City has requested a contingency plan based upon sale (and potential different types of users or multi-tenant uses) of all parcels. As such, the applicant has proposed the following language that could be included as a condition of the overall project approvals (and part of the development agreement):

BioMarin will incorporate the following provisions into an enforceable deed for the project site: Changes in tenancy or use, expansion of use(s), or expansion of floor area that create a parking demand that is more than five (5) percent greater than the number of required parking spaces approved under PD permit (# to be added) shall provide additional automobile parking, bicycle parking, and loading space as required by the San Rafael Municipal Code and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand. Existing parking shall be maintained but may be replaced in a reconstructed parking facility. A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with PD permit amendment (# to be inserted).

As proposed, the sale or expansion of existing uses would be required to show adequate parking supply prior to entitlement approvals.

Whistlestop Senior Center / Eden Housing Senior Housing

Use: A six-story senior center and affordable senior housing is proposed on the northwest portion of the subject property. The proposed use includes 12 total parking spaces (ground floor within the footprint).

Whistlestop, in partnership with Eden Housing, is proposing a new facility that will include 67 units of onsite affordable senior housing to complement the onsite Healthy Aging Campus.

Site Plan: The proposed building footprint would utilize the entire 15,000 sq. ft. allotment for the Whistlestop project provided on the subject property. The approximately 18,000 sq. ft. area on the first and second floors for Whistlestop's adult service program includes meeting rooms, classrooms, and service offices within a contemporary facility. There are 11 parking spaces for the Whistlestop facility with a single parking space for the resident manager; the senior housing is proposed as a car-free community and no parking spaces are included. Internal vehicle and van circulation would access the parking/drop-off area via the south entrance off Brooks Street. Cars would circulate counterclockwise and exit the parking area onto Brooks Street via the north exit.

The proposed affordable housing is located on the third through sixth floors and provides low, very low and extremely low-income units for seniors, aged 62 and older and who earn less than 60% of the Area Median Income. The housing, which will be a mix of one bedroom and studio apartments, will also include high quality amenities such as a community room, residential courtyard for gatherings and gardening, a computer center and exercise room, central laundry facility and furnished lobbies for casual social interaction and an on-site resident manager.

Architecture: The building's design is a contemporary/traditional building form of base/middle/top. The building's two-story base will be a solid form and material, with commercial storefronts on the ground floor, with decorative grilles that allow the parking garage to be well lit and ventilated. There will be similar larger windows for classrooms offices on the main Whistlestop floor. There will be a more vertically proportioned and scaled middle for the four residential stories; with the corner mass highlighted by a change in material and accented by a trellis or framing element which adds a top and visual importance to the buildings corner.

The accented entrance and lobby created by an arcaded walk allows for a ramp to ease the walk to the raised floor elevation above the areas flood plain. The lobby has a glassy storefront entry which extends through each floor of the building providing a sunlit lobby as one walks up the stairs to the Whistlestop Center or walks out of the elevator to the residences above. The building will be designed to meet Green-Point Rated or LEED standards of sustainability, with reduced energy and water use.

Density Bonus Concessions: Whistlestop/Eden Housing is requesting approval of 67 housing units, equivalent to approximately 224 lot area square feet per dwelling unit for the 15,000-square foot-portion of the 999 3rd Street development site. Pursuant to Govt. Code Section 65915(f), a "base" 35 percent density bonus may be applied to the allowed maximum residential density, resulting in "base" total of 34 units. To reach the 67 units proposed for this building, a Concession under the State's Density Bonus Law is also requested. Since 100% of the units will be for low-income seniors, the project qualifies for three concessions (Govt. Code § 65915(d)(2); SRMC, Table 14.16.030-1). Consistent with the San Rafael Municipal Code, Whistlestop and Eden Housing submitted a project pro forma that demonstrates that the concessions will result in identifiable and actual cost reductions for the project, including construction and operating costs (SRMC, § 14.16.030(H)(3)(b)(v)). Whistlestop/Eden Housing is also requesting the use of two concessions to build at the proposed density and height.

Landscape: A 2,800 sq. ft. courtyard rooftop garden above the second floor would provide private outdoor space for the affordable housing residents. The formal landscaping plan is coordinated with the BioMarin plan to create a cohesive site aesthetic.

Parking: The proposed project includes 11 ground level spaces for users of the senior center on the first and second floor. Per the parking requirement, the Whistlestop senior center would be required to provide 10 spaces (18,000 – 15,000 (1.0 FAR) = 3,000 sq. ft.). One space would be allocated for the on-site residential manager's unit. As noted above, pursuant to Gov't Code 69515 (e)(1) and (2), Whistlestop is

requesting a waiver/reduction of an additional development standard specific for senior residential parking requirements. The proposed project is thus requesting a waiver under the State's Density Bonus Law to reduce the required parking to one space for the on-site residential manager and no spaces for the residential units.

DRAFT EIR

Notice of Preparation (NOP):

On February 8, 2019, a Notice of Preparation (NOP) was mailed and published for a 30-day public review and comment period, consistent with the CEQA Guidelines. On March 12, 2019, the Commission held a scoping meeting during the 30-day comment period to hear public comment on the scope of the Draft Environmental Impact Report (DEIR). There are no written minutes from Planning Commission meetings, but actual video from the proceedings can be viewed [here](#). The purpose of the DEIR is to identify potential impacts to various environmental topics and analyze the extent to which the project design and alternatives would result in significant environmental impacts and will identify appropriate project modifications or mitigation measures to reduce or eliminate these impacts. Issues that were determined to be examined include the following: *Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, cumulative effects and a reasonable range of alternatives.*

The NOP made determined that the following topic areas would not require discussion in the EIR: *Agriculture and Forestry Resources, Mineral Resources, and Population and Housing.* There are no agricultural or forestry uses, mapped mineral resources, or existing housing on the site.

Growth inducement would be addressed as its own topic in the DEIR. Verbal comments were accepted at the NOP scoping meeting and were combined with submitted written comments. The Commission ultimately voted 7-0 (Motion by Commissioner Schoppert/Second by Commissioner Schaefer) to direct staff to prepare the DEIR with the additional topic areas identified by the Commission.

Notice of Completion (NOC) and Publication of DEIR:

The City's environmental consultant, Amy Skewes-Cox, has completed the DEIR and a NOC was distributed on August 9, 2019, pursuant to Section 15372 of the CEQA Guidelines. A Notice of Availability and public hearing notice was also mailed to all interested parties, including property owners, businesses and residents, within 500 feet of the site, as well as appropriate neighborhood groups (Gerstle Park Neighborhood Association, Bret Harte Community Assn, Montecito Area Residents Assn, Lincoln./San Rafael Hill Neighborhood Assn and the Federation of San Rafael Neighborhoods), interested parties and other governmental and quasi-governmental agencies. Additionally, notice was posted on the site, at both the existing building and proposed parking structure location and published in the Marin Independent Journal newspaper on Saturday, August 10, 2019.

The DEIR was mailed to the State Clearinghouse (SCH# 2019029046) and responsible State agencies at the start of the public review period. The DEIR was also made available for review online at the City of San Rafael website (<http://www.cityofsanrafael.org/999-3rd/>), at the San Rafael Public Library, and at San Rafael City Hall Planning Division offices. A limited number of printed copies have also been available for loan, and electronic CD copies of the document have been available for purchase.

Pursuant to the CEQA-mandated 45-day public review period from receipt of the NOC, the City will accept written comments on the DEIR until the Commission hearing on September 24, 2019, which extends the public comment period an additional day. Verbal comments will also be accepted at the Commission meeting, although the public was encouraged to submit comments in written format so that they can be

accurately and adequately responded to in the Final EIR. Comments on the DEIR should be restricted to the scope and adequacy of the DEIR, and not focus the merits of the project. The Planning Commission will hold a separate, noticed public hearing on the merits of the project at a future date.

Draft DEIR Summary and Conclusions:

The DEIR concludes levels of impact to the following topical areas :

- Less than Significant Impact: Potential impacts to the following topical areas were determined to be less-than-significant and would not require further mitigation: : *Aesthetics, Energy, Greenhouse Gas Emissions, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems*
- Less than significant, with mitigation: Potential impacts to the following topical areas were determined to be reduced to less-than-significant levels with recommended mitigation measures that incorporate best management practices consistent with the City of San Rafael General Plan and Zoning Ordinance:
- *Air Quality, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise and Transportation (ten impact issues)*
- Significant and Unavoidable Impacts: The DEIR concluded that the project would result in four potentially significant and unavoidable impacts to *Land Use and Planning (one impact) and Transportation (three impact issues)*.

All impacts must be mitigated to the extent feasible. The City would be required to adopt a Statement of Overriding Considerations pursuant to Section 15093(a) of the CEQA Guidelines before approving any project having unavoidable significant effects.

The following is a summary of the potential impacts that are less than significant with mitigation or significant and unavoidable:

Air Quality

Air Quality impacts are analyzed in Chapter 4.2 (pages 4.2-1 – 4.2-24) of the DEIR. The DEIR determined that the Project would not exceed the temporary or operational period emissions Bay Area Air Quality Management District (BAAQMD) significance thresholds. Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of particulate matter: PM₁₀ and PM_{2.5}¹. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. The BAAQMD CEQA Air Quality Guidelines consider these impacts to be less than significant with mitigation, if best management practices are implemented to reduce these emissions.

Recommended Mitigation Measures for Air Quality

Implementation of Mitigation Measure AIR-1 would reduce Fugitive dust emissions during project construction that could adversely affect a substantial number of people. (page 4.2-22):

Mitigation Measure AIR-1: During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD:

¹ PM₁₀: Particulate matter less than 10 microns in diameter, about one-seventh the thickness of a human hair. PM_{2.5}: Particulate matter 2.5 microns or less in diameter.

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations.

Cultural Resources

Cultural Resources impacts are analyzed in Chapter 4.3 (pages 4.3-1 – 4.3-12) of the DEIR. The project would have less-than-significant impacts on human remains, including those interred outside formal cemeteries. As noted above under “Pre-Contact Archaeological Resources and Human Remains,” Native American human remains could be encountered below the engineered fill at the project site. Should human remains be unearthed during project construction, these would be treated in accordance with existing state laws, including California PRC Section 5097.98 and California Health and Safety Code Section 7050.5. With enforcement and implementation of these state laws, project impacts on human remains would be less than significant, and no mitigation measures are required.

Recommended Mitigation Measures for Cultural Resources

Implementation of the following *Cultural Resources* mitigation measures CULT-1 and CULT-2 would reduce construction level impacts to a less-than-significant level, with mitigation (pages 4.3-8 and 4.3-9):

Mitigation Measure CULT-1: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.

The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:

“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery.

Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

Mitigation Measure CULT-2: Mitigation Measure CULT-1 shall be implemented.

Geology and Soils

Geology and Soils impacts are analyzed in Chapter 4.5 (pages 4.5-1 – 4.5-18) of the DEIR. The potential impacts related to these hazards are analyzed, including impacts from strong ground shaking, liquefaction, differentiated settlement, and unstable or expansive soils. The DEIR concluded that there would be no substantial adverse impacts related to surface rupture, landslides, or topsoil erosion and would be less than significant with no mitigation required. The project could potentially create a risk to structures and human lives due to ground shaking and corrosive soils and potentially damage unknown unique paleontological resources.

Recommended Mitigation Measures for Geology and Soils

Implementation of Mitigation Measure GEO-1 and GEO-2, which would ensure adherence to geotechnical report recommendations and California Building Code design criteria, would reduce potential impacts to a less-than-significant level. (page 4.5-13 and 4.5-14):

Mitigation Measure GEO-1: The project applicant shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans.

Mitigation Measure GEO-2: The project applicant shall implement Mitigation Measure GEO-1.

The implementation of Mitigation Measure GEO- 3, which requires that excavation activities be halted should a paleontological resource be encountered and the curation of any substantial find, would reduce this impact to a less-than significant level.

Mitigation Measure GEO-3: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted

to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

Hazards and Hazardous Materials

Hazards and Hazardous Materials are analyzed in Chapter 4.7 (pages 4.7-1 – 4.7-22) of the DEIR. The project site is currently undergoing remediation pursuant to requirements of the Department of Toxic Substances Control (DTSC) related to the historical use of the site as a Manufactured Gas Plant from 1875 to 1930. The project does not have the potential to create a significant hazard through transport, use or disposal of hazardous materials nor would it release hazardous materials or emissions during construction or near a school. Short-term and operational impacts related to hazardous materials as a result of the project construction would be reduced to less than significant levels. However, accidental release of hazardous materials during operation could be potentially significant.

Recommended Mitigation Measures for Hazards and Hazardous Materials

Implementation of Mitigation Measure HAZ-1 will ensure that post-remediation conditions of the project site and ensure the engineering controls are operated and maintained (page 4.7-20), therefore would be less than significant with mitigation:

Mitigation Measure HAZ-1: Prior to the approval of building permits, the applicant shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls (e.g., vapor mitigation systems and contaminated soil caps) have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment.

Implementation of Mitigation Measure HAZ-1, compliance with the requirements of the Covenant and O&M Plan as required by DTSC, and compliance with existing regulations related to hazardous materials that would be handled during operation of the project would ensure that the proposed project would result in less-than-significant impacts related to accidental releases of hazardous materials during operation.

Hydrology and Water Quality

Hydrology and Water Quality are analyzed in Chapter 4.8 (pages 4.8-1 – 4.8-22) of the DEIR. The project is generally consistent with local water quality control plans and would not result in construction or operational impacts related to erosion, flood flows, or flood hazards and tsunamis. Development of the proposed project could substantially degrade surface and groundwater quality. Changes in drainage patterns on the project site could result in localized flooding due to the exceedance of the local stormwater drainage system capacity.

Recommended Mitigation Measures for Hydrology and Water Quality

Implementation of Mitigation Measure HYDRO-1 and HYDRO-2 will ensure that development of the project would not degrade surface or groundwater quality and not substantially change drainage patterns that would impact the local stormwater drainage system (page 4.8-17 and 4.8-18), therefore would be less than significant with mitigation:

Mitigation Measure HYDRO-1: Prior to the approval of building permits, the applicant shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits.

Mitigation Measure HYDRO-2: The project applicant shall incorporate the recommendations of the preliminary hydrology study into the project design and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.

Land Use and Planning

Land Use and Planning impacts are analyzed in Chapter 4.9 (pages 4.9-1 – 4.9-10) of the DEIR. In general, the proposed project would be consistent with federal, state, and local regulations and policies. However, impacts related to transportation and vehicle trips would degrade levels of service at nearby intersections with no possible mitigation measures available to reduce to the level of significance to less than significant levels. Therefore, the following is a significant, unavoidable impact.

Impact LAND-1: The project could result in a conflict with San Rafael General Plan 2020 Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of the DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable.

No feasible mitigation measures are available, and therefore this impact would be **significant and unavoidable on both a project and cumulative basis**.

Noise

Noise impacts are analyzed in Chapter 4.10 (pages 4.10-1 – 4.10-26) of the DEIR. Noise impacts were evaluated in the DEIR specific to temporary (construction) and long-term (operational) periods for the proposed buildings and site improvement. The DEIR concluded that permanent noise increases from the project would neither violate the City's noise ordinance thresholds nor result in substantial permanent noise increases.

Noise impacts specific to temporary construction activities would however require mitigation. The Noise impacts resulting from temporary construction depend upon the noise generated by various pieces of construction equipment, the timing and duration of noise-generating activities, and the distance between construction noise sources and noise-sensitive areas. Construction noise impacts primarily result when construction activities occur during noise-sensitive times of the day (e.g., early morning, evening, or nighttime hours), the construction occurs in areas immediately adjoining noise-sensitive land uses, or when construction lasts over extended periods of time.

Recommended Mitigation Measures for Noise

Implementation of the following Noise mitigation measures would reduce construction level impacts to a less-than-significant level (pages 4.10-16 to 4.10-22):

Mitigation Measure NOISE-1a: The BioMarin project applicant shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA L_{max} is not exceeded at the Whistlestop/Eden Housing project.

Mitigation Measure NOISE-1b: The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications:

1. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment.
2. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment and enclose within temporary sheds or surround by insulation barriers, if feasible.
3. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction.
4. Use "quiet" air compressors and other stationary noise sources where technology exists.
5. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible.
6. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity.
7. Prohibit all unnecessary idling of internal combustion engines.

Mitigation Measure NOISE-1c: The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise and shall implement the procedures during construction. At a minimum, the procedures shall include:

1. Designation of an on-site construction complaint and enforcement manager for the project.
2. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence.
3. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.

Mitigation Measures NOISE-1d: Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b.

The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event fewer than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.

The combination of the four mitigation measures above would reduce the impact to a less-than-significant level.

Mitigation Measure NOISE-2: The project applicant shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA Lmax/50 dBA Leq during daytime or 50 dBA Lmax/40 dBA Leq during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency generators, acoustical screen walls, and equipment enclosures.

Mitigation Measure NOISE-3: Mitigation Measures NOISE-1a through NOISE-1d shall be implemented.

Transportation

Traffic impacts are analyzed in Chapter 4.13 (pages 4.13-1 – 4.13-28) of the DEIR. The project applicants contracted with Fehr & Peers to prepare the *Transpiration Impact Study for BioMarin 999 3rd Street San Rafael Campus Expansion Project* for the proposed Project. Fehr & Peers collected traffic counts at local intersections and evaluated the components of the Project to evaluate the Project trip generation, distribution, and assignment characteristics, allowing for an evaluation of Project impacts on the surrounding roadway network.

Fehr & Peers estimated the amount of traffic associated with the Project by evaluating intersections, roadway segments and operations on Highway 101. Thirty-six intersections were studied in the

Transportation Impact Study. Existing weekday AM (7am - 9am) peak hours and PM (4pm – 6pm) peak hour traffic counts and intersection service levels are provided in the Transportation Impact Study. All 36 study intersections currently operate at acceptable level of service (LOS).

Six arterial roadway segments were evaluated in the Transportation Impact Study. Each of the segments operates acceptably, except for 2nd Street between D Street and the Hetherton Street/US 101 southbound ramp intersection. During both the weekday AM and PM peak hours, this segment currently functions at LOS E with average travel speeds ranging from 7 to 9 miles per hour (mph).

The Transportation Impact Study assessed the operations of US 101 between I-580 and Lincoln Avenue. During the weekday peak hours, each of the segments operates acceptably except for southbound US 101 between the 2nd Street on-ramp and off-ramp to eastbound I-580. During the AM peak hour, the highway weaving segment functions at LOS F.

Additionally, existing pedestrian, bicycle, and transit facilities within the Project study area were identified and the Project's impacts to these existing facilities were evaluated. The traffic study also includes an evaluation of collision history within the project area.

The DEIR evaluated the Fehr & Peers report that analyzed the following scenarios:

Baseline and Baseline-Plus-Project Conditions

The Baseline scenario includes traffic volume increases and changes estimated to occur in the next few years just prior to the proposed project's opening. These increased traffic volumes would be associated with approved but not yet constructed land use developments, approved and funded transportation system improvements, and traffic increases expected due to regional growth. The traffic generated by these projects added to existing traffic would constitute the Baseline scenario.

Cumulative and Cumulative-Plus-Project Conditions

Cumulative conditions include market-level population and employment growth, as well as expected transportation improvements for the year 2040.

Parking

While not an issue considered under CEQA, parking is a major component of the proposed project. The project by itself (without being combined with the existing SRCC campus) would require a total of 293 parking spaces. As part of the project description, the BioMarin applicant is proposing a "blended" parking requirement to accurately reflect the demand and need for parking spaces related to the proposed development. As a result, the applicant has proposed that the BioMarin project have a total of 29 spaces on the project site. When combined with other SRCC parking demands, a total of 1,446 parking spaces would be required for all BioMarin parcels. For the Whistlestop/Eden Housing project, a total of 10 parking spaces would be required, and this requirement would be met by the provision of 12 ground-level parking spaces.

Recommended Mitigation Measures for Transportation

The following mitigation measures are recommended as reasonable and feasible, and appropriate for the impacts associated with the proposed Project and would reduce significant adverse impacts related to increased traffic trips to less than significant levels (pages 4.13-21 to 4.13-27):

Mitigation Measure TRANS-1 BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM

peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15 percent reduction is identified for three consecutive years. This mitigation measure would reduce the impact to less than significant.

Mitigation Measure TRANS-5: Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets.

Mitigation Measure TRANS-6: The project applicant shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-construction" study, followed by a "post-construction" survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval.

Mitigation Measure TRANS-7:

- TRANS-7a: The project applicant shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.
- TRANS-7b: The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways.

The combination of these two mitigation measures would reduce the impact to less than significant.

Mitigation Measure TRANS-8: The project applicant shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street.

Mitigation Measure TRANS-9: The project applicant shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer.

Mitigation Measure TRANS-10: The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications.

Mitigation Measure TRANS-11: Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project

applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.

Mitigation Measure TRANS-12: The project applicant shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street.

Mitigation Measure TRANS-13: The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers.

Significant and Unavoidable Impacts for Transportation

The following impact areas are potentially significant, and no feasible mitigation is available. These impacts would be significant and unavoidable. (pages 4.13-22 to 4.13-23):

Impact TRANS-2: Project-related traffic, under Cumulative-plus-Project conditions, would contribute to continued LOS F conditions at the US 101 southbound off-ramp to Mission Avenue, increasing the volume-to-capacity (V/C) ratio of the off-ramp by 0.033 during the AM peak hour. Traffic operations and safety at the highway ramp diverge and along the off-ramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.

Impact TRANS-3: Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetherton Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

Impact TRANS-4: Under Cumulative-Plus-Project conditions, project-related traffic would worsen the service level at the 3rd Street and Tamalpais Avenue West intersection from LOS E to LOS F during the AM peak hour, with average delays increasing from 65.6 seconds to 96.7 seconds per motorist. During the PM peak hour, the intersection's service level would remain at LOS F with project-related traffic, but the project would increase average delays from 86.4 to 94.0 seconds per motorist. This impact would create conflicts with San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

Statement of Overriding Considerations

As identified in the DEIR, there are no feasible mitigations for the four impact areas identified above (Land Use, and three topics in Transportation), therefore the Project will result in a **significant and unavoidable impact**. Therefore, without an action to adopt the Environmentally Superior Alternative, the Commission (and ultimately the City Council) _would need to adopt a Statement of Overriding Considerations prior to approval of the project as proposed.

PROJECT ALTERNATIVES

CEQA requires that an EIR describe a range of reasonable alternatives to a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. One of the intents of the NOP and the Commission's scoping session is to help determine 'legitimate' potential alternatives to the project for discussion in the EIR. The EIR will

discuss as yet unknown potential alternatives to the proposed project in addition to a no-project alternative. Staff has preliminarily identified four (4) potential alternatives:

The following are the primary project objectives as outlined by BioMarin and Whistlestop/Eden Housing:

1. *Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the research and development (R&D) and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.*
2. *Provision of a new location for Whistlestop's existing Healthy Aging Center and Eden Housing's proposed senior housing that is affordable for the project and central to downtown San Rafael and public transit, and that avoids development on a site with potential historical significance that is proximate to the freeway and its associated air quality impacts.*
3. *Development of a project that will provide enhanced pedestrian experience and safety through the connection of BioMarin's existing campus and surrounding residential communities to San Rafael's downtown corridor with the use of site setbacks and landscaping along the perimeter of the project site, as well as improved sidewalks and crosswalk design.*
4. *Remediation and revitalization of a brownfield site.*
5. *Development of signature buildings in the heart of downtown San Rafael that are reflective of the history of San Rafael and its future growth.*
6. *Development of a high-quality, mixed-use building comprised of a Healthy Aging Center for Whistlestop, a non-profit organization vital to the local older adult community, that will provide services for older adults in San Rafael and the greater Marin County area in a practical and cost-effective manner; and 67 affordable rental housing units for seniors in an environmentally conscious, car-free community proximately situated to public transportation and downtown businesses.*
7. *Promotion of San Rafael's goals of encouraging alternative modes of transportation with the donation of funds to develop a bike lane on Lindero Street from 3rd Street to Andersen Drive.*
8. *Activation of 3rd Street as a vibrant downtown corridor, in parallel to and complementing 4th Street.*
9. *Support for the continued growth and retention of BioMarin in San Rafael, which in turn provides local employment opportunities and significant economic benefits to the City and local businesses.*
10. *Support for the City of San Rafael's desire to attract and retain a growing and sophisticated work force with high-paying jobs.*
11. *Creation of transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals.*
12. *Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.*

The following discussion summarizes the key aspects of the four alternatives focusing on whether the alternatives lessen the severity of the project's environmental impacts and would meet key project objectives:

1. **No project:** (as required by CEQA). Alternative 1, the No Project Alternative, would leave the project site unchanged. No drainage, access, parking, or other improvements would be made to the vacant site, which was once occupied by PG&E facilities. The No Project Alternative would leave this central San Rafael location unimproved.

The No Project Alternative would not meet any of the objectives of the proposed project.

2. **Reduced BioMarin and Whistlestop/Eden Housing project:** Alternative 2 would consist of a project that is similar to the proposed project but reduces the amount of overall proposed laboratory and office space of the BioMarin project, thereby reducing the anticipated peak hour traffic trips and other impacts. This alternative would reduce the overall number of employees at BioMarin from 550 to 229 employees, or by 58.3 percent. This reduction in employees could result in the project's significant, unavoidable traffic impacts at the following locations becoming less-than-significant impacts:

- 3rd St/Tamalpais Ave West intersection (cumulative-plus-project condition during AM and PM peak hour).
- 3rd St between Hetheron St and D St (westbound during AM peak hour).

This alternative assumes the following square footage changes for the proposed on-site BioMarin buildings:

- Building A: 32,340 sq. ft. for offices (vs. 77,000 sq. ft. under the proposed project) plus 20,000 square feet for amenities (including retail) space (vs. 33,000 sq. ft. under the proposed project), for a total of 52,340 square feet of office and amenities (including retail) space (vs. 110,000 square feet under the proposed project).
- Building B: 67,900 sq. ft. for laboratory space (vs. 97,000 sq. ft. under the proposed project).

Thus, the total square footage for the two BioMarin buildings under Alternative 2 would be 120,240 square feet, compared to the 207,000 sq. ft. under the proposed project. The office portion would be reduced by a slightly larger amount than the laboratory and retail space. The alternative would include two stories for Building A (reduced to 52,340 sq. ft.) as compared to the proposed project's four stories for Building A. Building B (67,900 sq. ft.) would be three stories with the top floor set back and with reduced square footage (as compared to the project's four stories for Building B). Otherwise, the site plan for the overall project would be similar to that of the proposed project.

Alternative 2 would meet all of the project objectives as listed at the beginning of this chapter except the following primary objective:

- Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing part would also not occur.

3. **Reduced BioMarin-Only project:** This alternative would assume a reduced height BioMarin project that would not require General Plan amendments for FAR, height bonuses, or parking modifications;

BioMarin Project under Alternative 3

Alternative 3 would reduce the building height of the BioMarin project to 54 ft. to comply with existing General Plan provisions and zoning for the site, with no bonus exemptions and no rezoning to Planned Development for the BioMarin portion of the site. The FAR would be increased from the proposed 0.90 to 1.50, as allowed by existing General Plan provisions and zoning, allowing a total of 199,649 sq. ft. for BioMarin on the site. The 199,649 sq. ft. on the site would be 25,351 sq. ft. less than the project total of 225,000 sq. ft. used for purposes of calculating FAR (207,000 sq. ft. proposed for BioMarin and 18,000 sq. ft. proposed for Whistlestop/Eden Housing). The FAR limit would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3 of the DEIR). It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (for a footprint of 25,380 sq. ft. per building). Both buildings would be four stories in height, but one building would be 10 feet longer than the other to allow the full 199,649 sq. ft.. Landscaping would be provided on all sides of the buildings and would meet the minimum landscaping (10 percent of the site) required by the Second/Third Streets Mixed-Use East (2/3 MUE) zoning.

This Alternative assumes a total of 220 parking spaces would be required to be provided on the site. This would be in addition to public parking that is assumed to allow the height bonus. It is assumed that about 240 spaces could be developed in a five-story garage, with 48 spaces at each level. Thus, this alternative would have a total of 327 parking spaces, of which 220 would serve BioMarin in the parking structure and the remaining 107 spaces would be for the public. The public parking could be reduced by 29 spaces if the City decided to leave the northeast corner of the site devoted to a public plaza and landscaped area.

Whistlestop/Eden Housing Project under Alternative 3

This alternative assumes that the Whistlestop/Eden Housing project would be located off the project site at 930 Tamalpais Avenue, where Whistlestop is currently located. It is assumed that 41 units of affordable senior housing (one of these would be a manager's unit) would be provided in a five-story building similar to the design proposed in 2016. The existing building would be demolished for new construction. The new building would contain housing and services for seniors and would be five stories in height in a Mission Revival style. The north end of the building would step down to three stories near Fourth Street. The total square footage of the new building would be 57,100+/- gross sq. ft..

Uses within the building would include residential units on the third, fourth, and fifth floors, with communal spaces on each of these floors for residents. The second floor and a portion of the third floor would be used for the Whistlestop Active Aging Center, with classrooms, offices, and meeting rooms. The ground level would contain parking and utility uses, along with the Jackson Café, which would remain a café component serving the Whistlestop Active Aging Center as well as the general public.

Access to transit would be available via (1) van service (Marin's Whistlestop Wheels Para Transit) with access at the ground-level garage, (2) buses at the adjacent San Rafael Transit Center, and (3) regional rail at the SMART station located at the east edge of the site. A total of 20 parking spaces would be provided in a street level garage for use by Whistlestop employees and guests. A van drop-off location would be provided within the garage so that users could enter the lobby from the garage and be protected from adverse weather conditions. Fourteen bicycle parking spaces would also be provided.

Alternative 3 would meet all of the project objectives as listed at the beginning of this chapter except the following four objectives:

- Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.
- Provision of a new location for Whistlestop's existing Healthy Aging Center and Eden Housing's proposed senior housing that is affordable for the project and central to downtown San Rafael and public transit, and that avoids development on a site with potential historical significance that is proximate to the freeway and its associated air quality impacts.
- Development of a high-quality, mixed-use building comprised of a Healthy Aging Center for Whistlestop, a non-profit organization vital to the local older adult community, that will provide services for older adults in San Rafael and the greater Marin County area in a practical and cost-effective manner; and 67 affordable rental housing units for seniors in an environmentally conscious, car-free community proximately situated to public transportation and downtown businesses.
- Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.

Alternative 3 would have reduced square footage for the BioMarin buildings and would not necessarily meet BioMarin's needs for R&D and laboratory infrastructure. The relocation of the Whistlestop/Eden Housing project to its Tamalpais Avenue site would conflict with the second objective above. The relocation of the senior housing would also be close to the freeway, with associated air quality impacts. This alternative would also have fewer senior housing units and thus would conflict with the goal of providing 67 affordable rental housing units for seniors. Finally, Alternative 3 would not meet the objective of keeping parking at the perimeter of the site, as parking would be located on the site (surface parking) and in a five-story structure at the corner of Brooks Street and 3rd Street.

4.

Reduced BioMarin plus Full Whistlestop/Eden Housing project: Under Alternative 4, the FAR would be increased from the proposed 0.90 to 1.50, allowing a total of 199,649 square feet for both BioMarin (181,649 sq. ft.) and the non-residential portion of Whistlestop/Eden Housing (18,000 sq. ft.). The Whistlestop/Eden Housing project would occupy 0.34 acre of the project site under this alternative and is assumed to be approximately the same as the proposed project in scale and height, given that the height bonuses allowed by the provision of affordable housing.¹⁰ Thus, the Whistlestop/Eden Housing project under this alternative would be 74,821 sq. ft. in total size.

However, the portion affected by the FAR limit would only be 18,000 square feet (e.g., first two floors of Whistlestop/Eden Housing project). The FAR limit of this alternative would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3, Project Description, of this DEIR).

It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (or 23,380 sq. ft.). With 181,649 sq. ft. for BioMarin, both Buildings A and B would be four stories in height. This alternative may have reduced square footage for laboratory space. Landscaping would be provided on all sides of the buildings.

Unlike Alternative 3, Alternative 4 is not assumed to have public parking on the site because Whistlestop/Eden Housing would be located in the northwest corner under this alternative. The project site is located within the Downtown Parking District which waives parking requirements for the first 1.0 of FAR.¹¹ With this alternative having an FAR of 1.50, parking required for BioMarin would be approximately 210 parking spaces.¹² However, unlike Alternative 3, which could include a parking structure in the area proposed for Whistlestop/Eden Housing under the project, this alternative would need an additional parking structure to provide the required number of on-site parking spaces.¹³ It is assumed that Building B would be shifted to the west (see Figure 5-5) so that an eight-story parking structure of about 150 ft. by 170 ft. could be constructed on the corner of 2nd St. and Lindaro St.. The parking structure height results from the fact that only 35 cars can be provided on each floor, given circulation requirements. Assuming 10 feet per floor, this parking structure would be about 60 ft. in height, or about the same size as the proposed BioMarin building height for the proposed project.

Alternative 4 would meet all of the project objectives as listed at the beginning of this chapter except the provision of the same square footage for laboratory space and the following objective:

- Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.

Alternative 4 would not meet the objective of keeping parking at the perimeter of the site, as parking would be located on the site (surface parking) and in an eight-story structure at the corner of Lindaro Street and 2nd Street.

Environmentally Superior Alternative

CEQA requires that an Environmentally Superior Alternative be identified; that is, determining which of the alternatives analyzed by the DEIR would result in the fewest or least significant environmental impacts. The DEIR concludes that the Environmentally Superior Alternative is the Alternative 2, the Reduced Scale Alternative:

If the environmentally superior alternative is the No Project Alternative, the CEQA Guidelines require that the EIR also identify an environmentally superior alternative from among the other alternatives. Alternative 2, the Reduced Scale Alternative, would be considered the environmentally superior alternative because the smaller scale BioMarin Buildings A and B would reduce some of the local traffic congestion. The reduction in building height for Buildings A and B would also result in slightly reduced visual impacts for the project when viewed along 2nd St. and 3rd St.. Also, Alternative 2 would retain the Whistlestop/Eden Housing project on the project site, which is a preferred site compared to its existing location at 930 Tamalpais Ave.. For these reasons, Alternative 2 would be the environmentally superior alternative.

As stated earlier, Alternative 2 would meet all of the project objectives as listed above except the following primary objective:

“Development of an underutilized vacant site in close proximity to BioMarin’s existing San Rafael headquarters to accommodate BioMarin’s planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin’s planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.”

Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden Housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. However, if the BioMarin part of Alternative 2 were not developed because the project’s primary objective could not be met, the Whistlestop/Eden Housing project would also not occur.

The Planning Commission should, in their review of the DEIR, consider which, if any, alternative would be preferable to the project as proposed or which combination of alternatives and the project would best achieve the goal of reducing the identified significant adverse impacts to historic resources.

Public Benefits and Statement of Overriding Considerations

Given that the DEIR concludes that the project would result in significant, unavoidable impacts to Land Use and Transportation, in order to approve the project, the Commission (and ultimately the Council) would have to adopt a Statement of Overriding Considerations if choosing to approve this project. This is not a topic for this meeting but would be a finding that the Commission would have to make if they elect to approve the project when it returns for final action at a future date (project merits and Final EIR).

The purpose of the DEIR is not to pass judgement or approve a project, but it is to be accompanied with the review of project merits and provide adequate information for decision makers and the public to understand potential impacts of a project and for City decision makers to make informed decisions.

- If a project has significant, unavoidable impacts, a City may still approve a project, but as part of the approval, the City would have to make a finding of Overriding considerations.
- A Statement of Overriding Considerations reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors).
- Adopting a Statement of Overriding Considerations would mean that the Commission finds that on balance, the benefits of the project outweigh the significant unavoidable environmental impact(s).
- Staff will address the overall public benefit of the Project as part of the review of project merits to be presented to the Planning Commission at a later meeting.

In this particular case, given that the project includes a request for a General Plan Amendment and PD Rezoning, the ultimate decision on this project will be that of the City Council, at a future public hearing, following Planning Commission review and recommendation, on the project merits, certification of the FEIR, and recommendation on the overriding considerations

CONCLUSIONS/NEXT STEPS

The DEIR has been prepared in accordance with the EIR preparation provisions of the CEQA Guidelines and the City’s Environmental Assessment Procedures Manual. The purpose of the DEIR is to identify a project’s potential impacts on various facets of the environment and identify any mitigation measures that are required to minimize shoe impacts. The scope of the Commission’s review at this DEIR hearing is to

evaluate, based on their review of the DEIR and public comment, whether the DEIR adequately assesses all potential impacts and evaluates a range of alternatives. It is recommended that the Planning Commission accept public comments on the document and direct staff to prepare a Final EIR.

Following this DEIR hearing, the City's environmental consultant will prepare written responses to all comments, which will be published in a second volume entitled, "Final EIR/Response to Comments". Once the FEIR is completed, a follow-up review by the Planning Commission will be scheduled, concurrent with a review of the project merits and the Planning entitlements. It is anticipated that this FEIR review/project merits hearing by the Planning Commission will occur in late 2019. Following the Planning Commission's review and recommendation of the FEIR and the project merits, the City Council will hold a public hearing(s) and take final action on the project, on both the planning entitlements, the certification of the FEIR and if approving the project, adoption of a statement of overriding considerations.

CORRESPONDENCE

All correspondence received on the DEIR, in response to the NOC, is attached as Exhibit 4. At the time of the printing of the staff report, only three comment letters specific to the DEIR has been received, from the State of California Department of Transportation (Caltrans), Federated Indians of Graton Rancheria, and one from each of the project applicants, BioMarin and Whistlestop / Eden Housing.

Caltrans comments can be summarized as follows:

- **Highway Operations**
Please state the source of the traffic volumes presented in the Transportation Impact Study, Figure 4. Weekday Peak Hour Freeway Volumes - Existing Conditions. Please state how the data is different from the traffic volumes reported in the Caltrans Performance Measurement System (PeMS).
- **Construction-Related Impacts**
Potential impacts to US 101 from project-related temporary access points should be discussed. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.
- **Lead Agency**
As the Lead Agency, the City of San Rafael is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN.) The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

The Graton Rancheria expressed a desire to be updated on all procedures related to the EIR process.

BioMairn and Whistlestop/Eden Housing each submitted comment letters specifically requesting further investigation into the project alternatives listed in the DEIR and requesting an updated response to clarify the applicant's objectives. BioMain also provides comments and/or is requesting clarification regarding several of the topic issues in the DEIR including the project description, Aesthetics, Air Quality, Cultural Resources, Greenhouse Gas Emissions, Land Use, Noise, Transportation, and Utilities. Whistlestop/Eden Housing agrees with many of the BioMarin comments as well as specific comments regarding Greenhouse Gas Emissions and Transportation topic areas.

Any additional comments received after the printing and distribution of the staff report will be forwarded to the Commission under separate cover.

OPTIONS

The Planning Commission has the following options:

1. Direct staff, by motion, to respond to comments on the DEIR and prepare the FEIR (*staff recommendation*);
2. Extend the public review period and continue the hearing; or
3. Direct staff to prepare a revised DEIR and re-circulate for public review.

EXHIBITS

1. Vicinity/Location Map
2. Notice of Preparation
3. Notice of Completion
4. Public Comments on DEIR

Project Plans (11" x 17" color plan sets previously distributed to the Planning Commission only)

Hard copy and CD of DEIR (previously distributed to the Planning Commission on August 9, 2019)

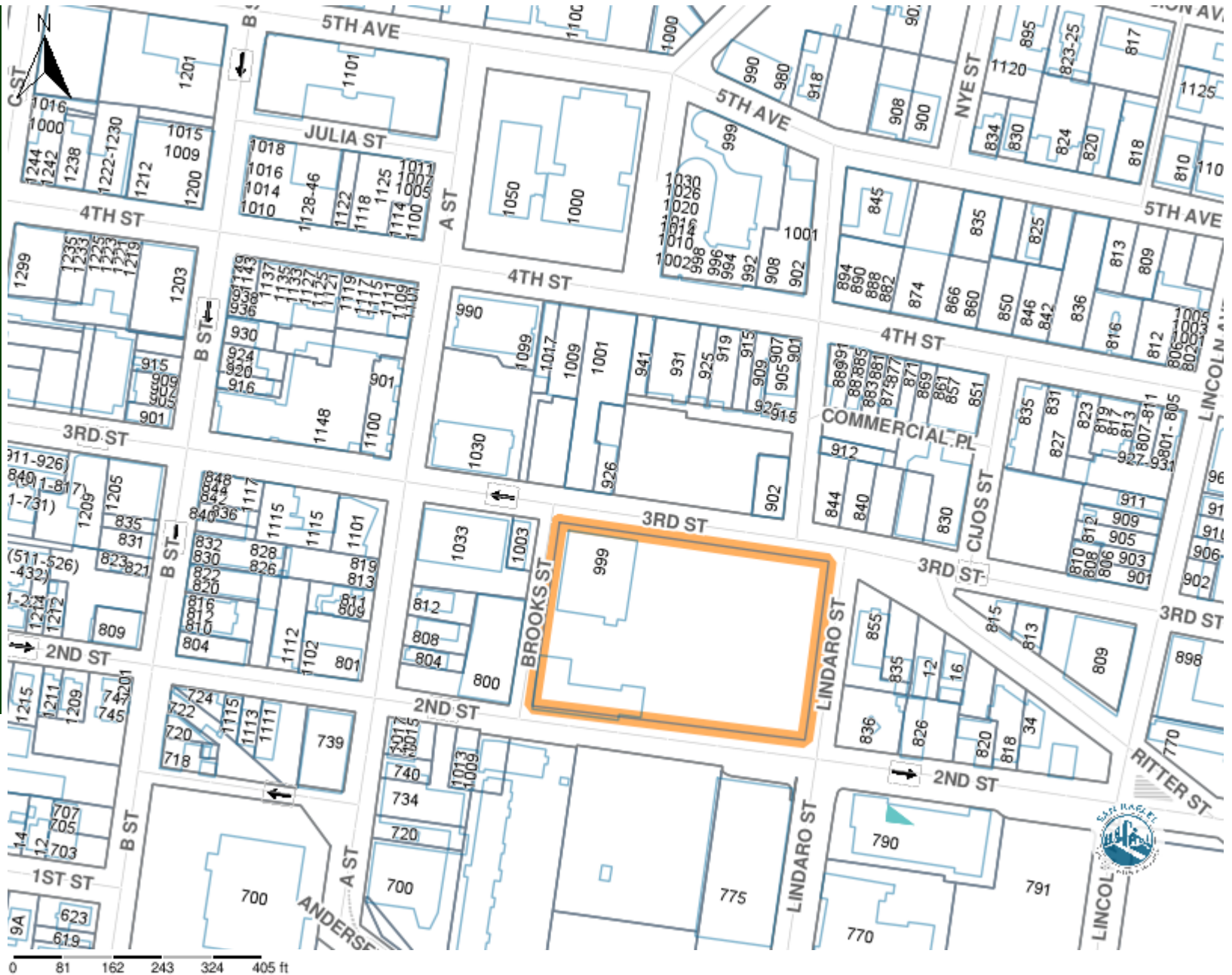
Copies of the DEIR , DEIR Appendices and project plans can be found at www.cityofsanrafael.org/999-3rd



Exhibit 1 - Vicinity Map

While we strive to produce maps with good accuracy and with current accompanying data, the accuracy of the information herein cannot be guaranteed. This map was prepared using programetric computer aided drafting techniques, and it does not represent legal boundary survey data.

Legend	
Bay Waters	
	Bay Waters
Parcels	
	Parcels
ROW	
	ROW
Boat Docks	
	Boat Docks
Buildings	
	Buildings
OneWayArrows	
	One Way Arrows
Medians	
	Medians
Street Centerline	
	Street Centerline
Street Names	
	Street Names
Label	
	SITUS
San Rafael Sphere of Influence	
	San Rafael Sphere of Influence
San Rafael City Limit	
	City Limit Line





NOTICE OF PREPARATION

Date of Mailing: February 8, 2019

TO:	Office of Planning and Research State Clearinghouse 1400 Tenth Street, Room 212 Sacramento, CA 95814	FROM:	Sean Kennings, Contract Planner LAK Associates, LLC City of San Rafael Community Development Department Attn: Sean Kennings, Contract Planner 1400 Fifth Ave San Rafael, CA 94901
	Responsible and Trustee Agencies, Utility Providers, Organizations, Neighboring Property Owners, Neighboring Occupants, and Interested Parties		

NOTICE OF PREPARATION OF AN ENVIRONMENTAL IMPACT REPORT AND SCHEDULED SCOPING MEETING FOR THE BIOMARIN AND WHISTLESTOP/EDEN HOUSING PROJECT EIR

The City of San Rafael (City) is preparing an Environmental Impact Report (EIR) for the BioMarin (a global biotechnology company) and Whistlestop Senior Center/Eden Housing Project (project), which consists of a proposed expansion of the BioMarin/San Rafael Corporate Center campus (750/770/790 Lindero St and 781/791 Lincoln Ave) onto 999 3rd St and the construction of the Whistlestop/Eden Housing Healthy Aging Center and Affordable Housing project on a 3.05-acre site located at 999 3rd Street, San Rafael, California. The California Environmental Quality Act (CEQA) requires that the City conduct environmental review of the project, which has the potential to result in physical change in the environment. The City is the "Lead Agency" for the project and is the public agency with the principal responsibility for approving and carrying out the project. The City has determined that an EIR will be the required CEQA document for the project.

The City is issuing this Notice of Preparation (NOP) to invite comments on the scope and content of study for the EIR. This NOP is being sent to local agencies, nearby residents, and other interested parties. When the draft EIR is published, it will be sent to all parties who respond to this NOP or who otherwise indicate that they would like to receive a copy of the draft EIR.

RESPONDING TO THIS NOP: Responses to this NOP and any related questions or comments regarding the scope or content of the Draft EIR must be directed in writing to: **Sean Kennings, Contract Planner, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901** or by e-mail to sean@lakassociates.com

Comments on the NOP must be received at the above mailing or e-mail address within 30 days of receipt of this notice, or **before Monday, March 11, 2019, at 5:00 PM**. Please reference the project title of “BioMarin/Whistlestop” in all correspondence.

Responses to this NOP should focus, specific to this project, on the potentially significant environmental effects that the project may have on the physical environment, ways in which those effects might be minimized, and potential alternatives to the project that should be addressed in the EIR. This focus aligns with the purpose of the EIR to inform the public about these aspects of the project.

EXISTING CONDITIONS: The 3.05-acre project site (Assessor’s Parcel Number 011-265-01) is currently vacant and paved with an asphalt surface. The site was previously used by Pacific Gas & Electric Company (PG&E) as a manufactured gas plant and has been undergoing environmental remediation. In late 2017, PG&E completed soil excavation as defined in its Remedial Action Plan (RAP) on two acres of the 3-acre project site, backfilled the excavation with clean material, restored the project site, and conducted soil vapor sampling. The project site is now paved with asphalt and monitors are in place to test groundwater. The western portion of the project site, where buildings were once located, has yet to be remediated, and BioMarin will be responsible for this second phase of remediation (site soils and soil vapor monitoring and all other remediation except groundwater for which PG&E will remain responsible).

The surrounding neighborhood is largely commercial. The existing BioMarin campus is located immediately southeast of the project site, and Whistlestop operates an active aging center in a building next to the Sonoma Marin Area Rail Transit (SMART) station about one-quarter mile east of the project site. The two main transportation arterials in the vicinity are 3rd Street and 2nd Street. Smaller collector streets such as Brooks Street and Lindaro Street intersect with these one-way arterials. The 4th Street downtown core is one block north of the project site. Residential uses are located southwest of the site.

PROJECT DESCRIPTION: The BioMarin portion of the project would be constructed in two phases as follows:

- **Phase I** would consist of construction of Building A, which would be located on the north side of the project site and would include 77,000 square feet of office space and 33,000 square feet of amenities for employees and visitors of the overall BioMarin campus. The 33,000 square feet of amenities would be located on the ground floor and would include lobbies, conference rooms, a fitness center, dining space, and retail space. The retail space, consisting of about 3,500 square feet, would be open to the public. Additional public use space would be an adjacent landscaped plaza (approximately 6,000 square feet) that could be an outdoor public gathering area during daytime hours.
- **Phase II** would consist of construction of Building B, which would provide 97,000 square feet of laboratory (research and development [R&D]) space in the southern portion of the project site.

Both Building A and Building B would be 69 feet (four stories) in height. Building A would have approximately 262 feet of frontage on 3rd Street and 180 feet of frontage on Lindaro Street. Building B would have approximately 244 feet of frontage on 2nd Street and 109 feet of frontage on Lindaro Street.

Whistlestop/Eden Housing would develop its building on 0.34 acre at the northeast corner of the project site. The building would provide approximately 18,000 square feet of space for a Healthy Aging Center and 67 affordable senior housing units. The building would be developed at the same time as BioMarin Building A (Phase I). The proposed 67 housing units would be leased at affordable rents to those aged 62 and over who earn less than 60 percent of the area median income. Residential amenities would include a community room, dance/exercise studio, computer center and library, and landscaped courtyards with community gardens for residents to grow vegetables and herbs. A roof deck would be provided on the northwest and southwest corners of the sixth floor.

A total of 22 surface parking spaces would be provided for the BioMarin portion of the project at the southwest corner of the site, with access from 3rd Street. Cars would enter the site from 3rd Street, travel south to the parking area, and then exit onto Brooks Street. The 12 ground-floor parking spaces provided within the Whistlestop/Eden Housing project would have ingress and egress points on Brooks Street, north of the exit point for the surface parking area. In Phase I, when only BioMarin Building A and the Whistlestop/Eden Housing project would be located on the site, a total of 78 surface parking spaces would be provided since space would be available where Building B (Phase II) is proposed.

Approvals requested for the project include a General Plan amendment to modify the maximum intensity of non-residential development and a rezoning to expand the Planned Development District boundary.

Project plans, project description and technical studies for this project can be found on the project web page at <https://www.cityofsanrafael.org/999-3rd/>

POTENTIAL ENVIRONMENTAL EFFECTS: The EIR will address the following potential environmental effects: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology/Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use, Transportation/Traffic, and Utilities. The EIR will examine project and cumulative effects and a reasonable range of alternatives to the project that may be capable of reducing or avoiding potential environmental effects that may be identified for the project. The topics of Agricultural and Forestry Resources, Mineral Resources, and Population/Housing will not be addressed in the EIR as these do not apply to the project or project site.

SCOPING MEETING: A scoping meeting will be held before the City of San Rafael Planning Commission on **Tuesday, March 12, 2019 at 7 PM at the City Council Chambers at 1400 Fifth Avenue, San Rafael, CA.** This meeting will include a brief overview of the EIR process and allow time for oral comments on the scope of the EIR.

For More Information: For additional information on the project or if you wish to be placed on a mailing list to receive further information as the project progresses, please contact Sean Kennings, Contract Planner, at (415) 533-2111, sean@lakassociates.com or the mailing address above.

Date: February 8, 2019

Signature: 

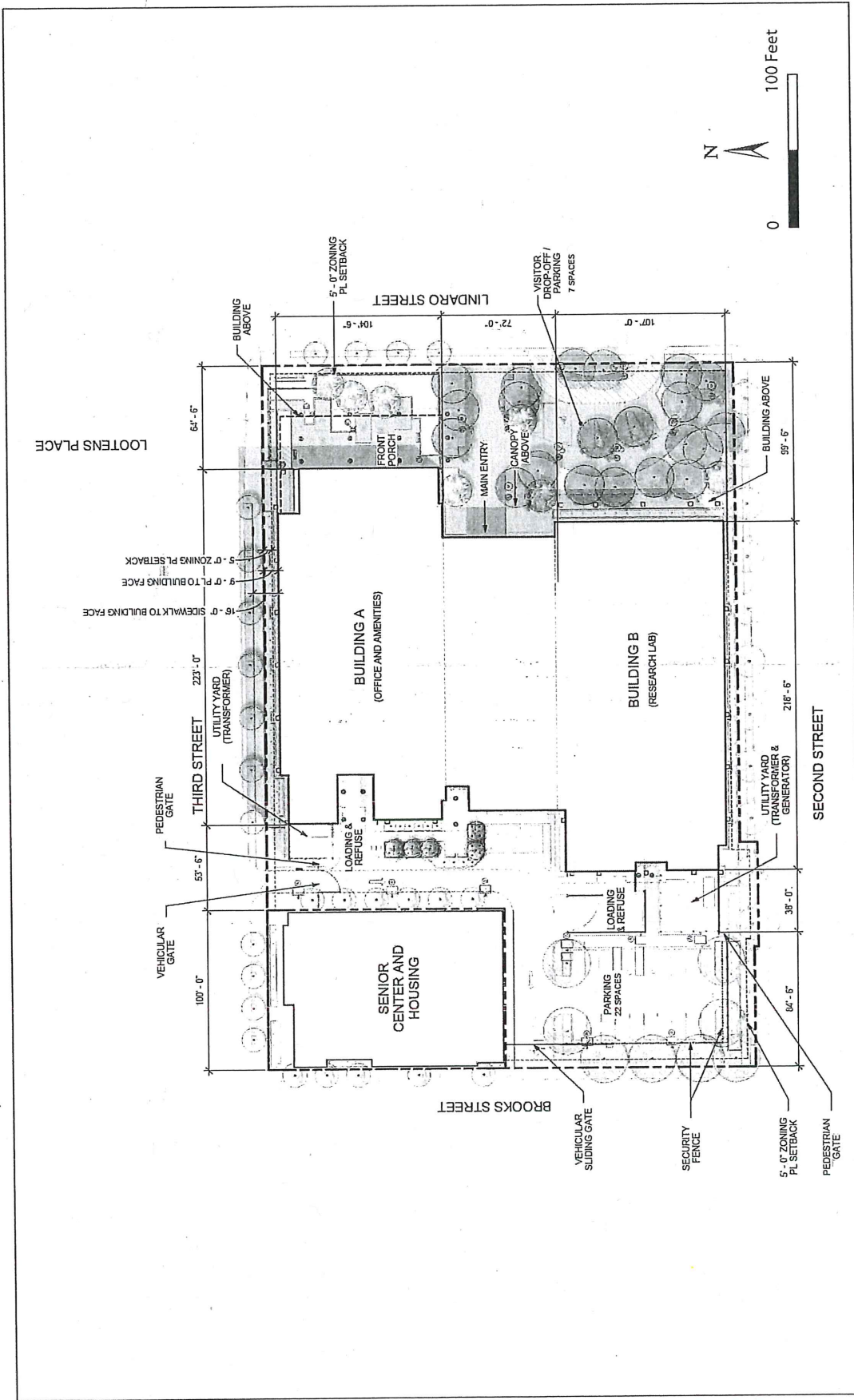
Name/Title: Raffi Boloyan, Planning Manager

Reference: California Code of Regulations, Title 14, (State CEQA Guidelines) Sections 15082(A), 15103, 15375

Sign Language and interpretation and assistive listening devices may be requested by calling (415) 485-3085 (voice) or (415) 485-3198 (TDD) at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

Public transportation to City Hall is available through Golden Gate Transit, Line 22 or 23. Para-transit is available by calling Whistlestop Wheels at (415) 454-0964.

To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.



PROPOSED SITE PLAN

SOURCE: Johnson Fain, 2018



Form A: Notice of Completion

Mail to: State Clearinghouse, 1400 Tenth Street, Sacramento, CA 95814 916/445-0613

SCH# 2019029046

Project Title: BioMarin and Whistlestop/Eden Housing Project

Lead Agency: City of San Rafael Contact Person: Sean Kennings, Contract Planner
 Street Address: 1400 Fifth Avenue Phone: (415) 533-2111
 City: San Rafael Zip Code: 94901 County: Marin County

Project Location

County: Marin County City/Nearest Community: City of San Rafael
 Cross Streets: 3rd Street, 2nd Street, Lindaro Street, Brooks Street Zip Code: 94901 Total Acres: 3.05 acres
 Assessor's Parcel No. 011-265-01 Latitude: 37°58'N Longitude: 122°30'27"W
 Within 2 Miles: State Hwy #: U.S. 101 Waterways: San Rafael Creek
 Airports: _____ Railways: SMART Schools: Dominican University, Bahia Vista Elementary School, James Davidson Middle School, Laurel Dell School

Document Type

CEQA: NOP Supplemental/Subsequent **NEPA:** NOI **Other:** Joint Document
 Early Cons EIR (Prior SCH No.) _____ EA Final Document
 Neg Dec Other _____ Draft EIS Other _____
 Draft EIR FONSI

Local Action Type

General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, Parcel Map, Tract Map, etc.) Other Zoning Ordinance and Planned Development amendments, Major Environmental/Design Review Permit, density bonus, sign program

Development Type

Residential: Units 67 Acres 0.34 Water Facilities: Type _____ MGD _____
 Office: Sq. ft. 77,000 Acres 2.71 Employees 400 Transportation: Type _____
 Commercial: Sq. ft. 51,000 Acres --- Employees 10 Mining: Mineral _____
 Industrial: Sq. ft. _____ Acres _____ Employees _____ Power: Type _____ Watts _____
 Educational: _____ Waste Treatment: Type _____
 Recreational: _____ Hazardous Waste: Type _____
 Other Laboratory space: 97,000 sq. ft.; 140 employees

Funding (approx.) Federal \$ _____ State \$ _____ Total \$ _____

Project Issues Discussed in Document

Aesthetic/Visual Flood Plain/Flooding Schools/Universities Water Quality
 Agricultural Land Forest Land/Fire Hazard Septic Systems Water Supply/Groundwater
 Air Quality Geologic/Seismic Sewer Capacity Wetland/Riparian
 Archaeological/Historical Minerals Soil Erosion/Compaction/Grading Wildlife
 Coastal Zone Noise Solid Waste Growth Inducing
 Drainage/Absorption Population/Housing Balance Toxic/Hazardous Land Use
 Economic/Jobs Public Services/Facilities Traffic/Circulation Cumulative Effects
 Fiscal Recreation/Parks Vegetation Other Greenhouse gas emissions

Present Land Use/Zoning/General Plan Designation

The project site is currently vacant and at one time housed a gas manufacturing plant. The City's General Plan designation for the site is "Second/Third Mixed Use." The zoning of the site is "Second/Third Streets Mixed-Use East (2/3MUE)."

Project Description

The two components of the proposed project are the BioMarin project and the Whistlestop/Eden Housing project. Both would be located within the downtown San Rafael block bounded by 2nd Street on the south, 3rd Street on the north, Lindaro Street on the east, and Brooks Street on the west. The BioMarin portion of the project would be constructed in two phases as follows:

- **Phase I** would consist of construction of Building A, which would be located on the north side of the project site and would include 77,000 square feet of office space and 33,000 square feet of amenities for employees and visitors of the overall BioMarin campus. The 33,000 square feet of amenities would be located on the ground floor and would include lobbies, conference rooms, a fitness center, dining space, and retail space. The retail space, consisting of about 3,500 square feet, would be open to the public. Additional public use space would be an adjacent landscaped plaza (approximately 6,000 square feet) that could be an outdoor public gathering area during daytime hours.
- **Phase II** would consist of construction of Building B, which would provide 97,000 square feet of laboratory (research and development [R&D]) space in the southern portion of the project site.

Both Building A and Building B, as measured from finished ground floor to the top of the roof deck, would be 69 feet in height, but they would be officially considered 72 feet (four stories) in height as measured by the 2016 California Uniform Building Code, which determines maximum height from the lowest adjacent grade 5 feet from the proposed building (at the northeast corner of the site). Building A would have approximately 262 feet of frontage on 3rd Street and 180 feet of frontage on Lindaro Street. Building B would have approximately 244 feet of frontage on 2nd Street and 109 feet of frontage on Lindaro Street.

Whistlestop/Eden Housing would develop its building on 0.34 acre at the northwest corner of the project site. The building would provide approximately 18,000 square feet of space for a Healthy Aging Center and 67 affordable senior housing units and would be considered a "Healthy Aging Campus." The building would be developed independently from the BioMarin project but most likely at the same time as BioMarin Building A (Phase I). The proposed 67 housing units would be leased at affordable rents to those aged 62 and over who earn less than 60 percent of the area median income. Residential amenities would include a community room, computer center and library, and landscaped courtyards with community gardens for residents to grow vegetables and herbs. A roof deck would be provided on the northwest and southwest corners of the sixth floor.

A total of 29 surface parking spaces would be provided for the BioMarin portion of the project after full development of both buildings. This total would consist of 7 spaces at the entrance to the project site off Lindaro Street at the southeast corner of the project site, and 22 additional surface parking spaces at the southwest corner of the site, with access from 3rd Street. Cars would enter the site from 3rd Street, travel south to the parking area, and then exit onto Brooks Street. The 12 ground-floor parking spaces provided within the Whistlestop/Eden Housing project would have ingress and egress points on Brooks Street, north of the exit point for the surface parking area. In Phase I, when only BioMarin Building A and the Whistlestop/Eden Housing project would be located on the site, a total of 78 surface parking spaces would be provided since space would be available where Building B (Phase II) is proposed. A site plan for both projects can be seen in Figure 3-3 in Chapter 3, Project Description, of the DEIR.

Approvals requested for the project include a General Plan amendment to modify the maximum intensity of non-residential development and a rezoning to expand and combine the Planned Development District boundary of the San Rafael Corporate Center (SRCC) with the BioMarin portion of the subject property.

Lead Agency's Public Review Period

Starting Date: August 9, 2019

Ending Date: September 24, 2019

Signature of Lead Agency Representative _____ Date 8/9/2019

NOTE: Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g., from a Notice of Preparation or previous draft document) please fill it in.

Reviewing Agencies

- | | |
|---|--|
| <input type="checkbox"/> Resources | <input checked="" type="checkbox"/> Caltrans District 4 |
| <input type="checkbox"/> Boating / Waterways | <input type="checkbox"/> Dept. of Transportation Planning |
| <input type="checkbox"/> Conservation | <input type="checkbox"/> Aeronautics |
| <input type="checkbox"/> Fish and Game | <input type="checkbox"/> California Highway Patrol |
| <input type="checkbox"/> Forestry | <input type="checkbox"/> Housing and Community Development |
| <input type="checkbox"/> Colorado River Board | <input type="checkbox"/> Statewide Health Planning |
| <input type="checkbox"/> Dept. Water Resources | <input type="checkbox"/> Health |
| <input type="checkbox"/> Reclamation | <input type="checkbox"/> Food and Agriculture |
| <input type="checkbox"/> Parks and Recreation | <input type="checkbox"/> Public Utilities Commission |
| <input type="checkbox"/> Office of Historic Preservation | <input type="checkbox"/> Public Works |
| <input checked="" type="checkbox"/> Native American Heritage Commission | <input type="checkbox"/> Corrections |
| <input type="checkbox"/> S.F. Bay Conservation and Development Commission | <input type="checkbox"/> General Services |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> OLA |
| <input type="checkbox"/> Energy Commission | <input type="checkbox"/> Santa Monica Mountains |
| <input type="checkbox"/> State Lands Commission | <input type="checkbox"/> TRPA |
| <input checked="" type="checkbox"/> Air Resources Board | <input type="checkbox"/> OPR – OLGA |
| <input type="checkbox"/> Solid Waste Management Board | <input type="checkbox"/> OPR – Coastal |
| <input type="checkbox"/> SWRCB: Sacramento | <input type="checkbox"/> Bureau of Land Management |
| <input checked="" type="checkbox"/> RWQCB: Region # 2 | <input type="checkbox"/> Forest Service |
| <input type="checkbox"/> Water Rights | <input checked="" type="checkbox"/> Other <u>DTSC and BAAQMD</u> |
| <input type="checkbox"/> Water Quality | <input type="checkbox"/> Other _____ |

For SCH Use Only:

Date Received at SCH _____ Catalog Number _____

Date Review Starts _____ Applicant _____

Date to Agencies _____ Consultant _____

Date to SCH _____ Contact _____ Phone _____

Clearance Date _____ Address _____

Notes: _____

DEPARTMENT OF TRANSPORTATION

DISTRICT 4

OFFICE OF TRANSIT AND COMMUNITY PLANNING

P.O. BOX 23660, MS-10D

OAKLAND, CA 94623-0660

PHONE (510) 286-5528

TTY 711

www.dot.ca.gov

*Making Conservation
a California Way of Life.*

September 10, 2019

SCH #2019029046

GTS # 04-MRN-2019-00140

GTS ID: 14490

MRN-101-PM 10.93

Sean Kennings, Contract Planner
City of San Rafael
Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

BioMarin and Whistlestop/Eden Housing Project – Draft Environmental Impact Report (EIR)

Dear Sean Kennings:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the BioMarin and Whistlestop/Eden Housing Project. In tandem with the Metropolitan Transportation Commission's (MTC) Sustainable Communities Strategy (SCS), Caltrans' mission signals our continuing approach to evaluate and mitigate impacts to the State's multimodal transportation network. Caltrans' Strategic Management Plan 2015-2020 aims, in part, to reduce Vehicle Miles Traveled (VMT) and Greenhouse Gas emissions (GHG) in alignment with state goals and policies. Our comments are based on the August 2019 DEIR.

Project Understanding

The BioMarin portion of the project would be constructed in two phases. Phase I would consist of construction of Building A, which would be located on the north side of the project site and would include 77,000 square feet (sf) of office space and 33,000 sf of amenities for employees and visitors of the overall BioMarin campus. The 33,000 sf of amenities would be located on the ground floor and would include lobbies, conference rooms, a fitness center, dining space, and retail space. The retail space, consisting of about 3,500 sf, would be open to the public. Additional public use space would be an adjacent landscaped plaza (approximately 6,000 sf) that could be an outdoor public gathering area during daytime hours.

Phase II would consist of construction of Building B, which would provide 97,000 sf of laboratory space in the southern portion of the project site. Both Building A & B

would be 69 ft (4 stories) in height. Building A would have approximately 262 ft of frontage on 3rd St and 180 ft of frontage on Lindaro Street. Building B would have approximately 244 ft of frontage on 2nd St and 109 ft of frontage on Lindaro Street.

Whistlestop/Eden Housing would develop its building on 0.34 acre at the northwest corner of the project site. The building would provide approximately 18,000 square feet of space for a Healthy Aging Center and 67 affordable senior housing units. Regional access to the site will be provided approximately 0.3 miles east of the site at the US 101/2nd Street and Hetherton Street interchange.

Highway Operations

Please state the source of the traffic volumes presented in the Transportation Impact Study, Figure 4. Weekday Peak Hour Freeway Volumes – Existing Conditions. Please state how the data is different from the traffic volumes reported in the Caltrans Performance Measurement System (PeMS).

Construction-Related Impacts

Potential impacts to US 101 from project-related temporary access points should be discussed. Project work that requires movement of oversized or excessive load vehicles on state roadways requires a transportation permit that is issued by Caltrans. To apply, visit: <https://dot.ca.gov/programs/traffic-operations/transportation-permits>.

Lead Agency

As the Lead Agency, the City of San Rafael is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN.) The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Andrew Chan at 510-622-5433 or andrew.chan@dot.ca.gov.

Sincerely,



Wahida Rashid

Acting District Branch Chief
Local Development - Intergovernmental Review

c: State Clearinghouse

----- Forwarded message -----

From: THPO@gratonrancheria.com <THPO@gratonrancheria.com>

Date: Wed, Aug 21, 2019 at 4:33 PM

Subject: BioMarin/Whistelstop/EDEN Housing Mixed Use Project at 999 3rd St

To: Sean Kennings - LAK Associates (sean@lakassociates.com) <sean@lakassociates.com>

Dear Mr. Kennings,

The Federated Indians of Graton Rancheria has received your project notification, and has reviewed your project and concluded that the project may impact Tribal Cultural Resources. Due to the location of the project's area of potential effect (APE) and the proximity to a site or within the sacred site, the Tribe will require a FIGR Cultural Monitor during ground disturbing activities, along with a Tribal Treatment Plan (developed in coordination with the Tribe, land owner and lead agency).

Please contact the Tribal Heritage Preservation Officer (THPO) to make arrangements for a cultural monitor, treatment plan sample. Allow us one month to issue a plan, contract, and scheduling. We appreciate being notified of the project and look forward to working with you to protect Tribal Cultural Resources.

Buffy McQuillen

Tribal Heritage Preservation Officer (THPO)

Native American Graves Protection and Repatriation Act (NAGPRA)

Office: 707.566.2288; ext. 137

Cell: 707.318.0485

FAX: 707.566.2291

Hector Garcia

THPO Administrative Assistant II

Federated Indians of Graton Rancheria

6400 Redwood Drive, Suite 300

Rohnert Park, CA 94928

Office: 707.566.2288, ext. 138

Fax: 707.588-9809

Email: hgarcia@gratonrancheria.com <<mailto:hgarcia@gratonrancheria.com>>

www.gratonrancheria.com <<http://www.gratonrancheria.com/>>

P please consider our environment before printing this email.

Federated Indians of Graton Rancheria and Tribal TANF of Sonoma & Marin - Proprietary and Confidential

CONFIDENTIALITY NOTICE: This transmittal is a confidential communication or may otherwise be privileged. If you are not the intended recipient, you are hereby notified that you have received this transmittal in error and that any review, dissemination, distribution or copying of this transmittal is strictly prohibited. If you have received this communication in error, please notify this office at 707-566-2288, and immediately delete this message and all its attachments, if any. Thank you.



September 19, 2019

Mr. Sean Kennings, Contract Planner
City of San Rafael
Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

Re: Written Comments on the Draft EIR for the BioMarin and Whistlestop/Eden Housing Project

Dear Mr. Kennings,

BioMarin Pharmaceutical Inc. reviewed the Draft EIR for the BioMarin and Whistlestop/Eden Housing Project (Project) proposed for the 3.05-acre site at 999 3rd Street in downtown San Rafael, California (the "Draft EIR"). Our written comments on the Draft EIR follow. We appreciate the opportunity to be part of the environmental review process and we are committed to ensuring that our project with Whistlestop/Eden Housing best addresses the needs of the community with the least environmental impact possible.

BACKGROUND

BioMarin is a global biotechnology company that was founded in Marin County in 1997. BioMarin purchased the 999 3rd Street property from PG&E in 2015 to meet its growing need for additional R&D laboratories and offices. As one of the largest and fastest growing employers in San Rafael and Marin County, with a significant share of its workforce residing locally, BioMarin's development of this property in partnership with Whistlestop/Eden Housing, supports San Rafael's goals of economic development, downtown vibrancy, affordable senior housing, and transit-oriented development. Additionally, the proposed project advances the City's goals and policies for Downtown San Rafael set in the General Plan.

This project allows for expansion of BioMarin's facilities and development of a healthy aging center and affordable senior housing in an efficient and flexible manner that supports and incorporates many state and local needs, including (1) the State's critical need for affordable housing; (2) a new Whistlestop Healthy Aging Center to provide social, health and wellness, and information services for seniors; (3) San Rafael's need to advance its Downtown vision and activate 3rd Street as a Downtown corridor complementing 4th Street; (4) San Rafael's desire for increased revenue and growth by expanding the Downtown's economic success and increasing opportunities for retail, office, and residential development; (5) a collective need to clean up brownfield sites and revitalize underutilized parcels; (6) San Rafael Downtown Station Area Plan's goal to enable new transit-oriented development characterized by increased activity and a mix of uses; and (7) Marin County's desire to attract high-paying jobs and an educated workforce by promoting and extending the North Bay Life Science Cluster Alliance's mission. The overall project is intended to contribute to the economic development, sustainability, and vitality of Downtown San Rafael.

COMMENTS

Alternatives

While we appreciate the City's analysis of various alternatives to the Project, we want to clarify that the alternatives are not feasible from our perspective nor do they meet the primary project objectives. As shared in the background above, the Project has been thoughtfully designed to meet BioMarin's growing need for additional R&D laboratories and offices while also accommodating the development of a healthy aging center and affordable senior housing.

Specifically, the Draft EIR identifies Alternative #2 as the "Environmental Superior Project" and suggests that it meets all the 12 project objectives other than the first objective ("Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing."). In fact, alternative #2 fails to satisfy most of the primary project objectives. Reducing BioMarin's portion of the Project by over 58% would make the Project impracticable for BioMarin. Given the high costs of construction and land in the San Francisco Bay Area, it would not be feasible for BioMarin to build a smaller campus on the Project site and BioMarin would be forced to find an alternative location to grow its campus. Without BioMarin (and its proposed public plaza and retail space) on this site, in addition to failing to satisfy the first objective, the following additional objectives would not be achieved:

- Activation of 3rd Street as a vibrant downtown corridor, in parallel to and complementing 4th Street.
- Development of a project that will provide enhanced pedestrian experience and safety through the connection of BioMarin's existing campus and surrounding residential communities to San Rafael's downtown corridor with the use of site setbacks and landscaping along the perimeter of the project site, as well as improved sidewalks and crosswalk design.
- Promotion of San Rafael's goals of encouraging alternative modes of transportation with the donation of funds to develop a bike lane on Lindero Street from 3rd Street to Andersen Drive.
- Remediation and revitalization of a brownfield site.
- Development of signature buildings in the heart of downtown San Rafael that are reflective of the history of San Rafael and its future growth.
- Support for the continued growth and retention of BioMarin in San Rafael, which in turn provides local employment opportunities and significant economic benefits to the City and local businesses.
- Support for the City of San Rafael's desire to attract and retain a growing and sophisticated work force with high-paying jobs.
- Creation of transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals.

Moreover, the Whistlestop/Eden Housing development is contingent on BioMarin's project. If BioMarin relocates its project to a new location, the Whistlestop/Eden Housing portion of the Project would not proceed at the Project site. As a result, despite the conclusion in the Draft EIR that with Alternative #2 Whistlestop/Eden Housing "would be unchanged from the proposed project," Whistlestop/Eden Housing would in fact have to find a new location, which has proven difficult in the past, with a dearth of cost-effective and centrally located real estate available in downtown San Rafael. As such, Alternative #2 would also result in (1) San Rafael not realizing the affordable housing benefits provided by the Project and (2) the failure to achieve the following additional objectives:

- Provision of a new location for Whistlestop's existing Healthy Aging Center and Eden Housing's proposed senior housing that is affordable for the project and central to downtown San Rafael and public transit, and that is proximate to the freeway and its associated air quality impacts;
- Development of a high-quality, mixed-use building comprised of a Healthy Aging Center for Whistlestop, a non-profit organization vital to the local older adult community, that will provide services for older adults in San Rafael and the greater Marin County area in a practical and cost-effective manner; and 67 affordable rental housing units for seniors in an environmentally conscious, car-free community proximately situated to public transportation and downtown businesses.

Similarly, for the same reasons articulated with Alternative #2 and despite conclusions to the contrary in the Draft EIR, by reducing the scale of BioMarin's portion of the project and locating a massive 8-story parking structure on the site, Alternative #4 fails to meet the same primary project objectives discussed above, as well as the final objective relating to parking:

- Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.

In short, Alternative #4 would not achieve any of the primary project objectives.

Project Description

BioMarin wants to clarify that the BioMarin portion of the Project would not result in a "new" Planned Development (PD) zoning district, as stated at Page 3-11. In fact, as proposed, the existing PD zoning district for the SRCC would be amended and expanded to include BioMarin's portion of the Project. Thus, there is no new PD zoning district created.

Aesthetics

Despite the analysis in the Draft EIR, the Project is an infill project that does not require an aesthetics evaluation. Infill projects include those developed on sites "located within an urban area that has been previously developed, or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses," and transit priority area "means an area within one-half mile of a major transit stop that is

Mr. Sean Kennings
September 18, 2019
Page 4 of 9

existing or planned.” CEQA §§ 21099(a)(4),(7); See *Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 725-26. The Legislature specified in Senate Bill 743 (SB 743) that effective January 2014, aesthetics is expressly not an impact required to be evaluated under CEQA for infill projects located in transit priority areas. CEQA § 21099(d)(1) (“Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site within a transit priority area shall not be considered significant impacts on the environment.”)

The Project site is less than one-half mile away from an existing transit stop and fits the definition of an infill project. It is located within the Downtown Priority Development Area (PDA) identified in Plan Bay Area. The Downtown PDA was designated in 2009 and established a one-half-mile radius planning area around the SMART station and Bettini Transit Center. The Project site is located west of Highway 101 and two blocks (or a five-minute walk) from the Bettini Transportation Center and Sonoma-Marín Area Rail Transit (SMART) San Rafael station. The site was formerly developed with a manufactured gas plant and is surrounded on all sides by existing development. Therefore, while the City may review the potential aesthetic impacts of the project for informational purposes, aesthetic impacts of this infill project are exempt from environmental review under CEQA section 21099.

Air Pollution

The Draft EIR notes that a drill rig (for pile driving) was added to the default construction list for purposes of calculating construction related emissions (p. 4.2-13, Table 4.2-5). However, BioMarin would like to make clear that our geotechnical engineers have confirmed that the Project will be constructed using drilled piers.

Cultural

Though it is not addressed in the Draft EIR, we understand the City will comply with SB 18 noticing requirements as part of the General Plan Amendment. BioMarin will certainly support tribal monitoring if requested and warranted.

Greenhouse Gas Emissions

BioMarin appreciates and agrees with the Draft EIR’s conclusion that the Project is consistent with the City’s Climate Change Action Plan (CCAP). For the record and to ensure the Draft EIR conclusion is defensible, the following elaborates on exactly how the Project satisfies the CCAP and why it is reasonable to find less than significant GHG emissions impact, based also on the fact that the Project is consistent with SB 372, the Sustainable Communities Strategy, and Plan Bay Area 2040.

In *Center for Biological Diversity v. Department of Fish & Wildlife* (2015) 62 Cal.4th 204, 228–230, the California Supreme Court explained that there are various options available to evaluate cumulative significance of a proposed land use project on greenhouse gas emissions. These include consistency with a local Climate Action Plan (CAP) and consistency with a Regional Sustainable Community Strategy (SCS). Here, the Project is consistent with both the City’s Climate Change Action Plan (CCAP) and the Association of Bay Area Government’s Regional SCS.

Climate Change Action Plan

As explained on page 4.6-11 of the Draft EIR, the CCAP 2030 has been prepared pursuant to CEQA Guidelines Section 15183.5 and is considered a Qualified Greenhouse Gas Reduction Plan for streamlining CEQA analysis. In addition to the consistency analysis provided in Table 4.6-3, BioMarin asserts that the Project is consistent with the following additional measures:

- **LCT-C1: Zero Emission Vehicles.** The project will install electric vehicle chargers.
- **LCT-C3: Walking.** The Project is donating funds to enhance pedestrian safety with improved sidewalks and crosswalk design at the corner of Lindaro and 2nd streets, as well as 3rd Street and Lootens Place. The Project is consistent with the City's Bicycle and Pedestrian Master Plan and Complete Streets Program.
- **LCT-C6: Employee Trip Reduction.** BioMarin's existing Transportation Demand Management (TDM) Program would be expanded to apply to the entire BioMarin campus in San Rafael, including the Project site. In addition, Mitigation Measure TRANS 1 requires BioMarin to expand its current TDM program such that it further reduces daily vehicle trips by 15%.
- **LCT-C9: Smart Growth Development.** The Project is an infill, transit-oriented, mixed-use development located within 2 blocks of major public transportation stations.
- **SA-C1: Urban Forest.** There are no existing trees on the Project site. The Project is designed to be well landscaped with a rich palette of planting and generous landscaped street setbacks with local planting materials and large trees. The construction of the proposed project would be required to implement a SWPPP and to comply with City of San Rafael BMPs for construction activities, including measures for managing hazardous materials used on construction sites and for keeping the construction site maintained in a clean and orderly state, and hazardous materials storage requirements. In addition, the Project would install bioretention planters and pervious concrete pavers throughout the site. The Project would also be required to identify potential sources of pollutants and implement source control measures and provide for ongoing maintenance of bioretention facilities.

Consistency with Plan Bay Area 2040

As described on page 4.6-6 of the Draft EIR, SB 375 aligns regional transportation planning efforts, regional GHG reduction targets, and land use and housing allocations to reduce vehicle emissions and help California meet the GHG reduction goals established in AB 32. Under SB 375, the Association of Bay Area Governments adopted its Sustainable Communities Strategy (SCS) to reduce regional VMTs and associated GHG emissions through land use planning strategies, such as promoting compact, mixed-use commercial and residential development near public transportation hubs. Plan Bay Area 2040 is the regional SCS that applies to the Project.

As explained in Plan Bay Area 2040, its "core strategy is 'focused growth' in existing communities along the existing transportation network. This strategy allows the best 'bang for the buck' in achieving key regional economic, environmental and equity goals: it builds upon existing community characteristics, efficiently leverages existing infrastructure and mitigates impacts on areas with less development. Key to implementing the focused growth strategy are Priority Development Areas (PDAs) and Priority

Mr. Sean Kennings
September 18, 2019
Page 6 of 9

Conservation Areas (PCAs) identified, recommended and approved by local governments.”¹ Plan Bay Area 2040 identifies about 200 PDAs in which to focus growth. These are existing neighborhoods are served by public transit and have been identified as appropriate for additional, compact development.

The Project is a mixed-use commercial and residential development located within 2 blocks of major public transportation hubs and is located within the Downtown PDA in Plan Bay Area 2040. It is therefore entirely consistent with SB 375.

Land Use

BioMarin appreciates the Draft EIR’s analysis of relevant land use policies and programs on Pages 4.9-5 through 4.9-9. BioMarin would like to make clear that the proposed general plan amendment and rezoning does not result in any significant impacts and is consistent with relevant policies. In addition to the analysis provided in section 4.9-8, BioMarin would like to add that the Project, including the proposed General Plan amendments and rezoning would ensure that ensure the Project is consistent with the City’s General Plan Floor Area Ratio (FAR) and height policies, and is consistent with all other relevant policies in the General Plan. The General Plan highlights this site as a major Downtown redevelopment opportunity that could take advantage of visibility from 2nd and 3rd streets, extend uses on the SRCC, and support the 4th Street core. This type of infill, mixed-use development is consistent with the City’s land use planning documents that all encourage development of underutilized sites in the Downtown that are within walking distance of the transit center.

The General Plan land use designation for the Project site is Second/Third Street Mixed Use (2/3MU). The 2/3MU designation allows office and office-support service uses, and residential as part of mixed-use development. Therefore, this mixed-use office and residential Project is consistent with the allowable uses in the General Plan for this designation. However, BioMarin’s portion of the Project will require a General Plan amendment and PD amendment to be consistent with the land use policy regulating floor area ratio (FAR) (Policy LU-9 Intensity of Nonresidential Development) and maximum height restrictions in the General Plan and PD zoning.

FAR

As explained in the Project Description, the General Plan and Zoning Ordinance (Section 14.16.150) allow for a maximum FAR of 1.5 on the Project site, which equates to approximately 200,000 square feet of new development allowed on the site. With its donation of land to the Whistlestop/Eden Housing project and resulting smaller land area square footage for its own project, the BioMarin project would require a FAR of 1.75.

However, by expanding the SRCC PD district to incorporate BioMarin’s portion of the Project and blending the FAR, the overall FAR in the expanded PD district with BioMarin’s portion of the Project would only be 0.90. The Project includes a proposed General Plan amendment to blend the maximum FAR across the expanded BioMarin campus so that it is 0.90 (blended), which would allow the BioMarin portion of the Project to be constructed as proposed with the Whistlestop/Eden Housing project located at the northwest corner of the site. The General Plan amendment would amend Exhibit 6 in the Land Use

¹ Plan Bay Area 2040, Strategies and Performance, available here: <http://2040.planbayarea.org/strategies-and-performance>

Mr. Sean Kennings
September 18, 2019
Page 7 of 9

Element. The corresponding map in Section 14.16.150 of the Zoning Ordinance (Title 14 of the Municipal Code) would also be amended. In addition, the following policy would be added to LU-9:

Within a Downtown Planned Development, a blended floor area ratio (FAR) may be used to establish the maximum allowable floor area for nonresidential development. The maximum floor area allowed for subareas of the PD, calculated using the ratios shown in Exhibit 6, can then be combined and allocated among buildings within the PD without regard to the specific FAR for an individual building site, provided that the total allowable floor area for the PD is not exceeded.

Because the BioMarin's portion of the Project is the only Downtown Planned Development, this General Plan Amendment applies only to BioMarin's portion of the Project. Any new site that could take advantage of this General Plan amendment would first need to be rezoned, which would be a new and separate discretionary action subject to its own CEQA review.

Height

Also as explained in the Project Description of the Draft EIR, the Project includes a General Plan amendment to add the 999 3rd Street site to the list of locations in General Plan Exhibit 10 where a new height bonus would be allowed in return for provision of specified amenities and community benefits. The General Plan recognizes that flexibility is warranted when special circumstances occur. Here, a General Plan amendment to change the maximum allowable building height is necessary for the development of a biotech campus. R&D and laboratory space have greater requirements for floor to floor heights (17 feet to 19 feet) than those of a traditional office building (13 feet to 14 feet) due to programmatic and equipment-related requirements. The Project site is also located in a flood zone, and the ground-level slab of the proposed buildings must be raised to meet Federal Emergency Management Agency (FEMA) requirements. The proposed maximum height of 72 feet would accommodate efficient four-story R&D laboratory buildings and the specialized infrastructure they require, as well as the elevation of the ground floor at the low point of the site, in order to meet the standards for flood protection and stormwater management. The proposed General Plan amendment to allow a 20-foot height bonus would be specific to the Project site and would not change the height allowances or public benefits for the main SRCC parcels.

The Project also includes an amendment to the Building Height in the existing PD zoning district. The PD text amendment that accomplishes this change is to amend the "Building Height Development Standard" from "54 feet" to "54 feet, plus a 20-foot building height bonus."

Land Use Policy LU-2

We note that City has concluded that because the Project would have significant an unavoidable traffic impacts, the Project is inconsistent with Land Use Policy LU-2 (Development Review), and that this represents a significant and unavoidable impact. However, Land Use Policy LU-2a gives the City the ability to waive or modify any policy within Land Use Policy LU-2 "if it determines that the effect of implementing the same in the issuance of a development condition or other approvals would be to preclude all economically viable use of a subject property." Here, the City has required BioMarin to enhance its TDM program to ensure there is a 15% reduction in vehicle trips per day. Redevelopment of the Project site supports the City's goals of economic development, downtown vibrancy, affordable senior

housing, and transit-oriented development. As explained above, it is not economically feasible for BioMarin to construct a smaller campus because it would not accommodate its growing workforce. As such, it is entirely reasonable for the City to waive this policy.

Noise

BioMarin recognizes the impact of construction activities on the surrounding community and will design the construction work for our portion of the Project to be fully protective of the safety of site workers and the surrounding community. As with our current remediation work on the Project site, we will commit to monitor the Project construction work and remediate any noise, vibration, dust, and health hazards associated with such work. With regard to Mitigation Measure Noise-1a, BioMarin agrees that it is reasonable to require noise reducing measures to ensure that construction noise does not exceed the City of San Rafael's Ordinance level of 90 dBA. However, BioMarin disagrees that it is appropriate to restrict the operation of our work to only one piece of noise generating equipment within 40 feet of Whistlestop/Eden Housing once the Whistlestop/Eden Housing portion of the Project is complete. So long as BioMarin maintains a sufficient monitoring program and the operation of all equipment stays below the maximum level of 90 dBA, BioMarin should not be restricted from operating multiple pieces of equipment at one time.

Transportation

Similar to our comment above regarding aesthetics, parking impacts of this infill project are exempt from environmental review under CEQA section 21099.

With regards to Mitigation Measure TRANS-1, BioMarin is committed to enhancing our existing TDM program to reduce daily vehicle trips by 15%. We would appreciate any further clarity from the City on how this Mitigation Measure will be implemented for the two phases (Building A in Phase I, and Building B in Phase II) of BioMarin's portion of the Project.

With regards to Mitigation Measure TRANS-8 and Trans-10, BioMarin employees will cross the Lindaro at the improved crosswalk at the intersection of 3rd Street and Lindaro. The BioMarin portion of the Project would not need or use the proposed crosswalk at 3rd and Brooks Street and would therefore not have any impacts at that intersection. Further, with regard to Mitigation Measure Trans-10, BioMarin disagrees that use of a Pedestrian Hybrid Beacon is appropriate at the 3rd and Brooks Street intersection. BioMarin understands that the City previously installed a signalized beacon for crossing at this intersection, but removed it in 2011 due to safety concerns. Moreover, the beacon would create a nuisance for the residents of the Whistlestop/Eden Housing project.

Utilities

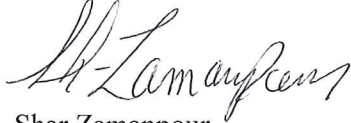
The Draft EIR states that the Redwood Landfill is estimated to cease operations in 2024, but does not offer an alternative landfill. BioMarin notes that the Potrero Hills Landfill (located in Suisun City) could be a viable option once the Redwood Landfill closes. The Potrero Hills Landfill has a permitted capacity

Mr. Sean Kennings
September 18, 2019
Page 9 of 9

of 83,100,000 cubic yards, a remaining capacity of 13,872,000 cubic yards, and is estimated to cease operation in 2048.2

Thank you for your consideration of our comments. If you have any questions, please feel free to contact Shar Zamanpour at (415) 382-5726 or me.

Regards,

A handwritten signature in cursive script, appearing to read "S. Zamanpour".

Shar Zamanpour
Director, Campus Planning and Design
BioMarin Pharmaceutical Inc.

² Potrero Hills Landfill (48-AA-0075), <https://www2.calrecycle.ca.gov/swfacilities/Directory/48-AA-0075/>



September 19, 2019

Mr. Sean Kennings, Contract Planner
City of San Rafael
Community Development Department
1400 Fifth Avenue, 3rd Floor
San Rafael, CA 94901

22645 Grand Street
Hayward, CA 94541

510.582.1460 Phone
510.582.6523 Fax

**RE: Draft EIR for the BioMarin and Whistlestop/Eden Housing Project
Written Comments**

Dear Mr. Kennings,

Thank you for the opportunity to comment on the BioMarin and Whistlestop/Eden Housing Project draft Environmental Impact Report.

Founded 65 years ago in 1954, Whistlestop is a non-profit with the mission is to ensure that every adult has the opportunity to age with independence, dignity and grace. Whistlestop provides a comprehensive hub of human needs services for Marin County's older adults and individuals with disabilities. These services include special needs transportation, nutrition, preventive health, job training, classes and activities, multicultural outreach and assistance, and a comprehensive information and referral help desk.

Eden Housing is also a mission-based nonprofit and one of the largest affordable housing providers in the state of California. The mission of Eden Housing is to build and maintain high-quality, well-managed, service-enhanced affordable housing communities that meet the needs of lower income families, seniors, and persons with disabilities. Since its founding in 1968, Eden Housing has developed more than 10,000 units of affordable housing, and today provides homes to more than 22,000 residents at rents they can afford so they have the foundation to live productive and successful lives.

Together, Whistlestop and Eden Housing propose to develop the Healthy Aging Campus on the northwest corner of the 999 Third St. parcel, in partnership with BioMarin as they expand their facilities. We appreciate the opportunity to comment on the DEIR. In several instances, we concur with comments that BioMarin is providing in a separate letter and have noted as such.

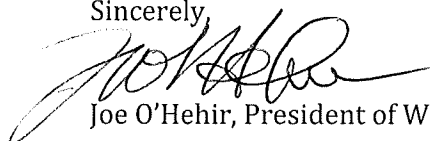
DEIR Comments:

1. **Alternatives**. Please see BioMarin's comments. We agree with and echo their comments. We would also like to particularly emphasize that the Whistlestop/Eden project is only possible through our partnership with BioMarin and their ability to develop their facilities as proposed.
2. **Aesthetics**. Please see BioMarin's comments. We agree with and echo their comments.
3. **Greenhouse Gas Emissions**. Please see BioMarin's comments. We agree with and echo their comments. With regards to the Climate Change Action Plan, we also note that the Whistlestop/Eden Housing Healthy Aging Campus is consistent with the following additional measures:

- a. **EE-M3: Energy Conservation.** The Whistlestop/Eden Housing project will include high efficiency lights on occupancy sensors to reduce energy consumption.
 - b. **WR-C2: Residential Organic Waste.** Informational sessions will be available to residents to educate and motivate residents to utilize the curbside collection services and home composting for food waste.
4. **Transportation.** Please see BioMarin's comments. We agree with and echo their comments. We have the following additional comments:
- a. **Impact TRANS-8 and Mitigation Measure TRANS-8:** Since the BioMarin and Whistlestop/Eden Housing buildings will be constructed at separate times, please separate out the responsibility of curb improvements of each intersection. We believe Whistlestop/Eden Housing should have responsibility for the 3rd Street and Brooks Street intersection, and BioMarin should have responsibility for the other intersections (3rd Street and Lindaro Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street).
 - b. **Impact TRANS-10 and Mitigation Measure TRANS-10:** Whistlestop/Eden Housing disagree that a crosswalk and pedestrian beacon should be installed on 3rd Street at Brooks Street. We believe adding the crosswalk and pedestrian beacon would be inconsistent with San Rafael General Plan 2020 Program C-4 (Safe Road Design). There previously was a crosswalk at this location but was removed in 2011 by the city's public works department citing safety concerns. That study found only 15 pedestrians used that crosswalk during peak travel hours, and the city had decided that for a busy thoroughfare such as 3rd Street, a crosswalk should not exist in that location. The public works director at the time had also noted that flashing lights, such as what would be provided in a pedestrian beacon, likely would not improve the situation. The crossings at 3rd/A Street or 3rd/Lindaro Street are safe and within short distances from the project. While nice in concept, we are concerned that in practice, a crosswalk at 3rd/Brooks crossing would not be safe for pedestrians, especially Whistlestop/Eden Housing users who are older adults and/or have disabilities.
 - c. **Impact TRANS-12 and Mitigation Measure TRANS-12:** We disagree that the Whistlestop/Eden Housing project's egressing driveway would have limited sight lines to Brooks Street. The driveway egress is not different than other driveway egresses in downtown San Rafael and also has the benefit of not having parked cars obstructing sight lines to Brooks Street. We do not agree with the measure to install systems that provide vehicle-activated audible and visual warnings. We particularly disagree with audible warnings in either the BioMarin or Whistlestop/Eden Housing driveway egresses, as the noise will be disruptive to the Whistlestop/Eden Housing senior residents and users. As the frequent SMART train horn noise has been disruptive to San Rafael residents, we have concerns that a vehicle-activated noise-emitting system will be similarly disruptive.

Thank you for your consideration. If you have any questions, please feel free to reach out to Susie Criscimagna at (510) 247-8130.

Sincerely,



Joe O'Hehir, President of Whistlestop



Andy Madeira, SVP of Eden Housing