

RESOLUTION NO. 19-05

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION APPROVING A USE
PERMIT AND ENVIRONMENTAL AND DESIGN REVIEW FOR A NEW 54-FOOT TALL,
140-UNIT HOTEL WITH BAR/LOUNGE LOCATED AT 1201 FIFTH AVENUE
APN:011-212-03

WHEREAS, the City of San Rafael has received an application for Use Permit and Environmental and Design Review for a 54-foot tall, 140-room hotel building with bar/lounge at 1201 Fifth Avenue in the downtown 5/M R/O Zoning District; and

WHEREAS, on March 5, 2019 and on March 19, 2019, the City of San Rafael Design Review Board reviewed the project and on a unanimous vote of 5-0 recommended Planning Commission approval of the project; and

WHEREAS, on April 23, 2019, the San Rafael Planning Commission held a duly noticed public hearing on the proposed Use Permit (UP18-045) and Environmental and Design Review Permit (ED18-106), accepting all oral and written public testimony and the written report of the Community Development Department staff.

WHEREAS, upon review of the application, the Planning Commission finds that the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines because it involves an infill development project that meets the following criteria:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designations and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

NOW THEREFORE BE IT RESOLVED, the Planning Commission makes the following findings relating to the Use Permit (UP18-045) and Environmental and Design Review (ED18-106):

**Use Permit
Findings (UP18-045)**

A. That the proposed use is in accord with the general plan, the objectives of the zoning ordinance, and the purposes of the district in which the site is located:

The site is designated as "Fifth Avenue Mission Residential/Office (5/M R/O)" on the General Plan 2020 Land Use Map and hotels projects are an allowable use within this designation. In addition, the project is consistent with the General Plan and specifically with the following General Plan Policies:

NH-18a Hotel/Cineplex. Through this policy, the General Plan supports the development of hotels in the downtown district because it has been identified as a use that can enhance the retail, restaurant

and entertainment venues by increasing the potential pedestrian population within the downtown areas. As such, the project is consistent with Land Use Policy NH-18a.

LU-12. Building Heights – LU-12 establishes height limits in the Downtown San Rafael area are varied. Hotels are allowed a height limit of 54-ft by right with an additional 12 feet with request for a height bonus. The project consists of a hotel with a height of 54 feet. No additional height bonus is requested by the applicant. As such, the project is consistent with Land Use Policy LU-12.

LU-14. Land Use Compatibility calls for designs that minimize potential nuisance effects and enhance their surroundings. The Board reviewed the proposed design and on March 19, 2019 voted unanimously (5-0) recommending Planning Commission approval

LU-20a. Hotel Zoning & NH-16. Economic Success - General Plan Policy LU-20a recognizes hotels as "...a desired land use because they are a low traffic-generator and a high tax-generator, and because they have identifiable benefits to the neighborhood such as job training programs." General Plan Policy NH-16 calls for expansion of "...Downtown's economic success and increase opportunities for retail, office and residential development." The 140-room hotel is expected to have an 85% occupancy rate. This could potentially add an additional 119 people to the downtown area. Hotel occupants are anticipated to frequent existing and future businesses in the Downtown and help achieve the City's goal of 'alive-after-five' by providing an opportunity to activate the Downtown in the evenings and on weekends.

CON-19. Energy Resources. General Plan Policy CON-19 calls for support of projects that incorporate renewable and/or efficient generating resources to reduce reliance on non-renewable resources. With incorporation of conditions of approval requiring installation of solar panels, the project will be consistent with this Policy.

B. That the proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city:

The project has been reviewed by appropriate city departments, including the Building Division, the Fire Department, Department of Public Works, and San Rafael Sanitation District. A building permit is required for this project. As conditioned, the project will be required to comply with Building Code and Fire Code requirements prior to construction. In addition, the applicant will be required to comply with Department of Public Works and San Rafael Sanitation District conditions of approval.

C. That the proposed use complies with each of the applicable provisions of the zoning ordinance:

The project is a 54-foot tall, 140 room hotel project which does not have minimum setback or maximum floor area requirements. The project complies with the maximum height for a hotel, which is 54 feet.

With incorporation of appropriate conditions of approval, the project will comply with the following site and use regulations contained in Chapter 14.16 of the Zoning Ordinance:

14.16.243 - Mechanical equipment screening.

Ground-mounted or rooftop mechanical equipment placed on the rooftop shall be adequately screened from public view. The applicant will be required to demonstrate that all ground-mounted and rooftop mounted equipment is screened prior to issuance of a building permit.

14.16.025 - Refuse enclosure requirement

Projects are required to provide a suitable area for collection of garbage and recyclable materials. Refuse storage areas shall be adequately screened from view. The applicant proposes garbage and recyclable storage/collection area on the west side of the property within the existing building footprint. Three double doors will secure the garbage/recycling area. In accordance with Design Review Board recommendations that the location of the enclosure shall be moved back off the street to provide better screening. This requirement has been added as a condition of approval.

14.16.227 - Light and glare.

Projects are required to incorporate colors, materials and lighting designed to avoid creating undue off-site light and glare impacts. Proposed building material include a brick panelized system, the use of glazing for at the base of the building (on the north side and east side) and glazing as a full-length corner feature at the northeast corner of the building (5th and B). Because the glazing material is oriented toward the north and northeast, reflectivity is not a concern. The project includes one pole mounted light fixture and several low-profile light bollards within the parking lot area and downcast lights within the entry canopy. A condition of project approval will require the submittal of spec sheets and a 90-day post installation review. In addition, the project will be required to demonstrate maximum intensity levels established by the Zoning Ordinance through submittal of a photometric diagram will be required as part of the building permit submittal.

**Environmental and Design Review
Findings (ED19-106)**

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter:

The project site has a land use designation of Fifth Avenue/Mission Residential/Office (5/M R/O) on the General Plan 2020 Land Use Map and is within the 5/M R/O Downtown Zoning District. Hotels are an allowable use within this zoning district with prior Conditional Use Permit approval by the Planning Commission. The General Plan supports the development of hotels in the downtown district through the following policies:

- General Plan Policy NH-18a. Hotel/Cineplex, identifies hotels as a use that can enhance the retail, restaurant and entertainment venues by increasing the potential pedestrian population within the downtown areas;
- General Plan Policy LU-20a recognizes hotels as “a desired land use because they are a low traffic-generator and a high tax-generator, and because they have identifiable benefits to the neighborhood such as job training programs;” and
- General Plan Policy LU-12 allows hotels a height of 54 feet with an additional height bonus of 12 feet (if requested), which is not requested in this particular case.

Recognizing the enormous task of having to balance competing concerns related to factors such as design, environmental changes, housing, and economics. General Plan NH-17 identifies economic and housing development as high priorities to the health of Downtown. The applicant has provided

an economic impact analysis (Exhibit 7) by the Marin Economic Forum. This report supports the assumption made under General Plan Policy LU20a by concluding that the project will result in over \$1 million in tax revenue as well as other direct, indirect and induced economic benefits to the downtown and to the city as whole.

The Design Review Board (Board) evaluated the design of the hotel project on July 17, 2018 as part of Conceptual Design Review and on March 5, 2019 and March 19, 2019 as part of a formal design review. The Board found that the project was appropriate in design and incorporated elements that reflected development within the downtown, and ultimately unanimously (5-0) recommended approval of the project design to the Planning Commission.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located:

The Design Review Board (Board) evaluated the design of the hotel project on July 17, 2018, as part of conceptual design review and on March 5, 2019 and March 19, 2019 as part of a formal design review. The Board found that the project was appropriate in design and incorporated elements that reflected development within the downtown, and ultimately unanimously (5-0) recommended approval of the project design to the Planning Commission.

C. That the project design minimizes adverse environmental impacts:

The project is exempt under CEQA Guidelines Section 15332 as an "infill development projects" for the following reasons:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designations and regulations.
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare or threatened species.
- d. Approval of the project would not result in any significant effects related to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public services.

To support the above conclusions, the applicant has provided a traffic study, noise study, and greenhouse gas assessment. Standard conditions of approval require the applicant to comply with MCSTOPP requirements for stormwater and erosion control. The project has been routed to the appropriate departments and appropriate conditions of approval have been incorporated.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity, given that the project has been reviewed by the appropriate agencies and appropriate conditions of approval have been incorporated accordingly.

BE IT FURTHER RESOLVED, that the Planning Commission of the City of San Rafael approves the Use Permit and Environmental and Design Review Permit subject to the following conditions:

Conditional Use Permit
Conditions of Approval (UP18-045)

1. This Use Permit approves a 54-foot tall, 140-room hotel project with associated parking, access and landscape improvements at 1201 Fifth Avenue and within the 5/M R/O downtown zoning district. The building techniques, materials, elevations, appearance of the project, as presented for approval on plans approved on April 23, 2019, shall be the same as required for issuance of a Building Permit except as modified by these conditions of approval.
2. This Use Permit shall run with the land. This Use Permit shall become null and void if not vested within two (2) years from the date of approval, or no later than April 23, 2021, unless a time extension is granted before that date. Vesting shall include issuance of necessary building permits or commencement of business operations.
3. Building Permit plans shall demonstrate compliance with standard conditions required by Building Official Memorandum, dated June 25, 2018.
4. The applicant shall demonstrate compliance with the City's noise ordinance. To this effort, after 180 days of beginning business operations related to the rooftop bar/lounge, the applicant shall submit a noise study that demonstrates compliance with the City of San Rafael Noise Ordinance for review and evaluation by the Planning Division.
5. As part of the ongoing operation of the project, the applicant shall implement a valet parking program as part of the tandem parking approval.
6. Building permit plans shall include rooftop solar panels. Roof top solar panels shall be installed Prior to Final Inspection.
7. Prior to Issuance of Building Permits, the applicant shall pay all outstanding Planning Division application processing fees.
8. Prior to Issuance of Building Permits, the applicant shall be all development impact fees required for this project, including those fees mentioned herein and other fees required by ordinance (ie affordable housing in-lieu fee, etc.).
9. Prior to Issuance of Building Permits, the applicant shall submit plans that show the required bicycle parking space (4 long term and 4 short term) plus additional required parking spaces (10 short term or long term) to compensate for the reduction in vehicle spaces.
10. The applicant shall comply with all applicable requirements of the San Rafael Municipal Code and of the implementing zone classification of 5/M R/O Downtown Zoning District.
11. Minor modifications or revisions to the project shall be subject to review and approval of the Community Development Department, Planning Division. Modifications deemed not minor by the Community Development Director shall require review and approval by the original decision-making body.
12. The project shall comply with the City construction operation limits as follows:
 - a. Construction hours shall be limited to
 - i. Weekdays between 7:00am and 6:00pm
 - ii. Saturdays between 9:00am and 6:00pm
 - iii. Sundays and holidays NO construction permitted.
 - b. Minimize concrete saw use within 50 feet of residences to the south as feasible.

- c. Prohibit all unnecessary idling of internal combustion engines.
 - d. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
 - e. Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
 - f. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
 - g. Notify all adjacent noise sensitive land uses of the construction schedule in writing.
 - h. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.
13. Building Permit plans shall demonstrate compliance with standard conditions outlined in Fire Department Memorandum, dated December 24, 2018
14. Prior to Issuance of Building Permit, the applicant shall submit plans and documents demonstrating compliance with all requirement of the San Rafael Sanitation District Memorandum, dated January 7, 2019.
15. Prior to Issuance of Building Permit, the applicant shall demonstrate compliance with the following Department of Public Works requirements:
- a. The applicant shall submit a Parking Demand Management (PDM) Plan that clearly describes the proposed transportation and parking solutions, including the proposed valet service, taxis or ridesharing and loading/unloading. This plan shall include measurable implementation strategies and shall commit to annual reporting on the effectiveness.
 - b. In the event the parking strategy proposed as part of the PDM is ineffective, the applicant will be required to provide a parking solution which may include one or more of the following:
 - i. Additional bicycle parking
 - ii. Off-site parking solutions
 - iii. Vanpool/Transportation services
 - iv. Other parking solution found suitable by the Department of Public Works.
16. Due to the extent and scope of the project, third party inspection may be required on behalf of the City and funded by the developer on a deposit basis.

Environmental and Design Review
Conditions of Approval (ED18-106)

1. This Environmental and Design Review approves a 54-foot tall, 140-room hotel project with associated parking, access and landscape improvements at 1201 Fifth Avenue and within the 5/M R/O downtown zoning district. The building techniques, materials, elevations, appearance of the project, as presented for approval on plans approved on April 23, 2019, shall be the same as required for issuance of a Building Permit except as modified by these conditions of approval.
2. This Design Review Permit (ED18-108) shall be valid for two years from approval or until April 23, 2021, and shall be null and void if a building permit is not issued or a time extension granted prior to the expiration date.
3. Pursuant to SRMC section 14.18.170 Lights provided to illuminate any parking facility or paved area shall be designed to reflect away from residential use and motorists. It is the intent to maintain light standards in a low-profile design, as well as to be compatible to the architectural design and landscape plan. Light fixtures (e.g., pole and wall-mount) should be selected and spaced to minimize conflicts with tree placement and growth.
4. The project is subject to a 90-post installation lighting inspection to evaluate the need for adjustment and assure compliance with SRMC Section 14.16.227.
5. Prior to issuance of a building permit, the applicant demonstrate compliance with Marin Municipal Water District water conservation measures.
6. Prior to Issuance of Building Permits, the plans shall be revised to show the location of the garbage enclosure be moved back further off the street to provide better screening.
7. Prior to Issuance of Building Permits the applicant shall submit updated plans that show all mechanical equipment (including rooftop equipment) shall be adequately screened from public view.
8. Prior to Installation of signs for this project, the applicant shall apply for sign review of the proposed signage.
9. Prior to Issuance of Building Permit, the plans shall be revised to show the following:
 - a. provide clear parking and driveway dimensions called out as required by DPW memorandum dated April 9, 2019. Parking dimensions shall comply with Municipal Code Section 14.18.
 - b. The structural columns shall not be located in the required maneuvering area. When parking spaces are located adjacent to columns, do not block the end of the space where turning movements are initiated.
 - c. Show the accessible parking on the plan.
 - d. Show the accessible path of travel for these spaces, as well as from the public Right-of-Way. Structural columns and drive aisles shall not conflict with the pedestrian areas.
 - e. Show turning movements on the plan, in particular for entering and exiting restricted parking spaces, in addition to the aisles where they do not meet City standard.
 - f. The loading area on 5th Avenue shall be revised to standard sidewalk, curb and gutter.
 - g. Queuing for loading/unloading and other services shall not back up onto the City streets.
10. Site runoff shall not be increased. Show the proposed drainage system on the plan, including drainage management areas and treatment area sizing.
11. Prior to Issuance of Building Permit, the applicant shall submit the stormwater control plan, which includes a written document, in addition to the erosion control plan shown on the plan set. A stormwater facility maintenance agreement shall be required. More specific information is available from MCSTOPPP, hosted on the Marin County Website. See tools and guidance, and post construction requirements at

<http://www.marincounty.org/depts/pw/divisions/mcstoppp/development/new-and-redevelopment-projects>

12. Prior to Issuance of Building Permit, the applicant shall show installation of a new catch basin that utilizes gravity flow to the creek. The drainage shall be coordinated with the Department of Public Works.
13. Prior to Issuance of Building Permits, provide a grading plan, with cut and fill amounts. For projects with 50 cubic yards or more of earthwork, a grading permit shall be required from the Department of Public Works, located at 111 Morphew St.
14. Frontage improvements shall be required for the site. Prior to Issuance of a Building Permit the applicant shall provide improvement plans that include the following:
 - a. Full sidewalk, curb and gutter.
 - b. Curb ramps for the intersection of 5th Avenue and B Street
 - c. Resurfacing of the intersection and fronting roadway.
 - d. New signals and lighting may be required, including detection and pedestrian push buttons.
 - e. Conduit along the project frontage may be required for the City's future use.
 - f. Details of this shall be coordinated with the City Traffic Engineer.
15. Prior to commencing work within the right-of-way, the applicant shall obtain an encroachment permit is required for any work within the Right-of-Way, from the Department of Public Works located at 111 Morphew St.
16. Fifth Avenue is currently a moratorium street. Full width resurfacing shall be required.
17. Prior to Issuance of Building Permit, the applicant shall update the traffic study as follows:
 - a. On page 1, the traffic impact study states the project will generate 55 trips during the morning peak hour and 45 during the evening peak hour. The total number of trips after accounting for existing uses should also be stated in the executive summary.
 - b. In Table 7 on page 11, the gross trip generation was used, instead of the net new number of trips. The trip distribution table should show the net new trips.
 - c. The minimum required bicycle parking shall be calculated using 5% of the total required vehicle spaces.
 - d. A construction vehicle impact fee shall be required at the time of building permit issuance; which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt.
18. Archeological Features: In the event that any archaeological features, such as concentrations of artifacts or culturally modified soil deposits including trash pits older than fifty years of age, are discovered at any time during grading, scraping, or excavation within the property, all work shall be halted in the vicinity of the find, the Planning Division shall be notified, and a qualified archaeologist shall be contacted immediately to make an evaluation. If warranted by the concentration of artifacts or soils deposits, an archaeologist shall monitor further work in the discovery area.
19. If human remains are encountered during grading and construction, all work shall stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist shall be notified immediately so that an evaluation can be performed. The Coroner shall contact the Native American Heritage Commission, if the remains are deemed to be Native American and prehistoric, so the "most likely descendant" can be designated.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 23rd day of April, 2019. The Planning Commission's Action is final unless it is appealed to the

City Council within five (5) working days pursuant to San Rafael Municipal Code Section 14.28.030 - *Filing and time limit of appeals.*

Moved by Commissioner Lubamersky and seconded by Commissioner Davidson. The vote is as follows:

AYES: Commissioners: Davidson, Lubamersky, Mercado, Robertson, Schoppert (Acting Chair)

NOES: none

ABSENT: Commissioners: Loughran, Shaeffer

SAN RAFAEL PLANNING COMMISSION

ATTEST: Paula A. Jensen
Paul A Jensen, Secretary

BY: Jeff Schoppert
Jeff Schoppert, Acting Chair

ATTACHMENT:

