



AGENDA

**SAN RAFAEL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, January 14, 2020, 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, December 10, 2019

PUBLIC HEARING

2. **Los Gamos Drive (VACANT LOT)** – Study Session for a request for General Plan Map Amendment, Zoning Map Amendment, and Environmental and Design Review. The General Plan Amendment request is to reclassify the property's land use designation from Hillside Resource Residential (HRR) to allow a higher density residential as well as the retail and community building. The Zoning Map Amendment request is to subsequently rezone the property to a Planned Development (PD) District to allow a high-density residential development with limited retail and community service facilities. The Development proposal includes: 1) a 180-unit residential development contained within 5 buildings; 2) a 1,368 square foot Community Center; and 3) a 1,671 square foot commercial building; APN: 165-220-06 &-07; Planned District PD-Hillside (PD-H)/Residential -Hillside (R2a-H) District; First CA. Lending Solutions-owner/Collin Russell-applicant; File No(s): CDR19-00. Project Planner: Alicia Giudice
3. **Annual Meeting of Planning Commission for 2019** to include: a) election of officers; and b) review of Planning Commission "Rules and Procedures"; and c) selection of liaisons to DRB meetings

DIRECTOR'S REPORT COMMISSION COMMUNICATION ADJOURNMENT

- I. Next Meeting: January 28, 2020.
- II. I, Anne Derrick, hereby certify that on Friday, January 10, 2020, I posted a notice of the January 14, 2020 Planning Commission meeting on the City of San Rafael Agenda Board.

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| <ul style="list-style-type: none">• 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. |
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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, December 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
Aldo Mercado (arrived at 7:24 pm)
Sarah Loughran
Berenice Davidson
Mark Lubamersky

Absent: Shingai Samudzi

Also Present: Alicia Giudice, Senior Planner
Steve Stafford, Senior Planner
Caron Parker, Associate 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, October 15, 2019

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

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

PUBLIC HEARING

2. **815 B St. (Formerly 809 B St and 1212 and 1214 2nd St.) – Follow-up review to determine the most appropriate organization to receive the one-time \$25,000 charitable contribution accepted by the City in adopting a Statement of Overriding Considerations previously approving a 41-unit mixed-use building; APNS: 011-256-12, -14, -15 & -32; Second/Third Mixed-Use West (2/3MUW) and Cross-Street Mixed-Use (CSMU) Zoning Districts; Tom Monahan, Applicant; 1200 Second Street Investors. LLC., Owner; Downtown Neighborhood. Project Planner: Steve Stafford**

[Staff Report](#)

Jeff Schoppert moved and Barrett Schaefer so approve project as presented. The vote is as follows:

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

3. **350 Merrydale Rd/3833 Redwood Hwy– Requests for a Planned Development Rezoning, Environmental Design Review Permit, Tentative Subdivision Map and Use Permit and Exception to allow the demolition of the existing one-story classroom buildings on site and new construction of nine (9) three-story buildings with a total of 45 condominium townhome units (including nine (9) affordable BMR (Below Market Rate) units). Total parking proposed on-site would be 94 spaces. The project requires a Rezoning of the property from a Planned Development (PD1594) which allowed the existing use (services for disabled adults), to a new PD that would allow residential development. APN's: 179-041-27 and 28; Planned Development (PD1594) Zoning District; Francine Clayton, owner, Michael Hooper, applicant; San Rafael Meadows Neighborhood. Project Planner: Caron Parker**

[Staff Report](#)
[Exhibits 1 - 3](#)
[Exhibit 4](#)
[Exhibit 5](#)
[Exhibits 6 - 9](#)

Jeff Schoppert moved and Mark Lubamersky seconded to adopt resolution approving Initial Study/Negative Declaration. The vote is as follows:

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

Jeff Schoppert moved and Barrett Schaefer seconded to adopt resolution approving rezoning. The vote is as follows:

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

Barrett Schaefer moved and Berenice Davidson seconded to adopt resolution approving Tentative Map and Environmental and Design Review permit to include the added conditions of approval requiring level 2 charge stations and wiring for solar. The vote is as follows:

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

4. **190 Mill Street–Study Session for a request for General Plan Amendment, Zoning Amendment, and Use Permit. The amendments would extend the existing high density residential general plan land use (HDR) and zoning district (HR1) boundary to include this site; would establish a “by-right” process for 100% affordable supportive housing as called for under AB2162; and would allow for a tiered height bonus available for qualifying projects. The project would also request a Use Permit to allow expansion of the existing emergency shelter. The development project would include construction of a 24,042 square foot building to accommodate the 60-bed emergency shelter plus 32 supportive housing units; APN: 014-192-12; Canal Industrial/Office (CCI/O) District; Homeward Bound owners/applicant; File No(s): GPA19-001/ZC19-001/UP19-001. Project Planner: Alicia Giudice**

[Staff Report](#)

This was a Study Session and no action was taken. The Commission provided comments to staff and the Applicant indicating a general support of the project and feedback to return with justification for the requested entitlements. The Board was not supportive of changes to allow a by-right bonus for 100% affordable housing projects until the City adopts objective standards.

5. **Preparation in advance of Annual Meeting of Planning Commission to include: a) distribution of Planning Commission “Rules and Procedures” for review before annual meeting in January 2020; and b) assignment of Planning Commission liaisons for 2020 DRB meetings. Project Planner: Alicia Giudice**

[Staff Report](#)

No action was taken. Individual Planning Commissioners volunteered for assignments as liaisons for the 2020 DRB meetings. The remaining dates will be filled at the January 2020 meeting.

DIRECTOR’S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

ANNE DERRICK, Administrative Assistant III

APPROVED THIS ____ DAY OF _____, 2020

Sarah Loughran, Chair



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date:	January 14, 2020
Agenda Item:	2
Case Numbers:	CDR19-002
Project Planner:	Ali Giudice/ 415-485-3092

REPORT TO PLANNING COMMISSION

SUBJECT: Los Gamos Drive (VACANT LOT) – Study Session for a request for General Plan Map Amendment, Zoning Map Amendment, and Environmental and Design Review. The General Plan Amendment request is to reclassify the property’s land use designation from Hillside Resource Residential (HRR) to allow a higher density residential as well as the retail and community building. The Zoning Map Amendment request is to subsequently rezone the property to a Planned Development (PD) District to allow a high-density residential development with limited retail and community service facilities. The Development proposal includes: 1) a 180-unit residential development contained within 5 buildings; 2) a 1,368 square foot Community Center; and 3) a 1,671 square foot commercial building; APN: 165-220-06 & 07; Planned District PD-Hillside (PD-H)/Residential -Hillside (R2a-H) District; First CA. Lending Solutions-owner/Collin Russell-applicant; File No(s): CDR19-00

STUDY SESSION PURPOSE AND FORMAT

The Preapplication Study Session is intended to provide an opportunity for early Planning Commission feedback on land use and policy questions and allows early opportunity for public input. This Study Session is not intended to result in any decisions regarding the project merits or official action on the project, but rather would allow the Commission to provide preliminary feedback on the project scope and size and other land use matters. There are a number of unknowns that the applicant will need to elucidate before getting too deep into merits of the project. Staff has provided the applicant with an initial staff-level Preapplication review (see Exhibit 3). Feedback provided as part of this process is non-binding. Staff is seeking Planning Commission input on the following:

- 1. Intensity of Development:** The Planning Commission is asked to provide comments/concerns on the intensity of development and appropriateness of this level of intensity for this site, given that this is a hillside property adjacent to Open Space upslope of the project site.
- 2. Height:** The applicant will either need to amend Exhibit 8 to allow the proposed height or request a concession from required height limit to allow the 50-foot high buildings. The Planning Commission is asked to weigh-in on the appropriateness of the proposed height.
- 3. Housing Needs:** The Planning Commission is asked to weigh in, provide comments and, if needed, request additional information from the applicant regarding the requested amendments as they relate to addressing the City’s housing needs.
- 4. Hillside Development:** The project site is a hillside lot with a slope of 30% or greater on highly visible hillside lots. The Planning Commission is asked to weigh in on the proposed development and provide the applicant feedback on whether the site plan demonstrates an appropriate clustering of buildings in a way that respects the hillside lot and the intent of these policies.

5. **Open Space:** The Planning Commission is asked to provide feedback on whether the applicant is doing enough to preserve open space in a way that was intended by the General Plan Open Space policies.

Other Comments:

The above items are the major topic areas where staff would like input from the Commission. Other issues identified in the analysis section would likely require input from experts via the submittal of technical documents. However, the Commission's role as the land use body for the city, may have other comments on other topic areas that will need to be addressed. Staff welcomes any additional input and contribution from the Commission. In addition, some of the pros and cons that the Commission should consider are as follows:

Pros

- The requested amendments would allow development of additional rental housing with smaller unit sizes, thus contributing to the mix of rental housing stock within the City.
- The project would contribute to the City fair share contribution to the Regional Housing Needs.
- Adding another large vacant parcel to the list of possible multi-family development sites would reduce the possibility of SB35 by-right processing obligations for the City.

Cons

- The project site is on a hillside lot that is highly visible from the freeway
- The site is currently identified as a potential open space.
- There are unknowns about the projects potential traffic impact on the nearby intersection and roadway system.

Staff recommends the Planning Commission conduct the review in the following manner:

- Staff presentation
- Applicant presentation
- Receive public comments
- Planning Commission discussion and feedback on the topics listed above and specific questions identified in the *Analysis* section below.

The study session is not an official public hearing since no official action is being taken. However, the City is committed to providing opportunities for community engagement during all phases of a development review process. As such, public comment is encouraged prior to discussion by the Commission.

PROPERTY FACTS

Address/Location:	Los Gamos Drive (Southwest end of Los Gamos Drive)	Parcel Number(s):	165-220-06 &-07
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Property Size:	10.92 acres	Neighborhood:	Mont Marin/San Rafael Park
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Site Characteristics			
	General Plan Designation	Zoning Designation	Existing Land-Use
Project Site:	Hillside Resource Residential	PD-H/R2a-H	Vacant
North:	Open Space (OS)	P/OS	Vacant/Open Space

	Office (O)	PD (#1963)	
South:	Hillside Residential (HR) Open Space (OS)	P/OS-H PD (#1581)-H	Vacant Open Space
East:	Office (O)	O PD (#1508 & #1963)	Office Building
West:	Open Space (OS)	P/OS	Open Space

Site Description/Setting:

The project site is a 10.9-acre hillside property consisting of two assessor’s parcels located at the southwest end of Los Gamos Drive. This section of Los Gamos Drive is accessed from Lucas Valley Road to the north. The Kaiser-Permanente garage project (approved in September 17, 2018), located on the west side of Los Gamos Drive (near the intersection of Los Gamos Drive and Lucas Valley Road) is currently under construction. Further south also on the west side of Los Gamos Drive is an overflow parking lot for County of Marin offices. Otherwise the west side of Los Gamos Drive is primarily undeveloped. The east side of Los Gamos Drive is developed with office buildings. Near the southeast end of Los Gamos Drive is the YMCA building located. At the end of the road is an office building, constructed in the 1980s. Vehicular access continues into the parking lot for this office building and then ends. Beyond the parking lot is Los Gamos Road, however, there is no through vehicle access at this point. There is no direct access from the property to Los Gamos Drive. The applicant will need to provide documentation that shows they have access rights over the adjacent parcels.

BACKGROUND

The project site consists of two lots located on the southeast end of Los Gamos Drive. The property currently has General Plan Land Use designation of HRR (Hillside Resource Residential) and has had this designation since 1988 through adoption of the General Plan 2000. The Hillside Resource Residential designation allows a density of 0.1 -0.5 units per /gross acre. This translates to a maximum gross density of 5 units based on the existing lot area of 10.92 acres.

In accordance with General Plan Policy LU-10 *Planned Development Zoning*, a Planned Development zoning is required for development on lots larger than five acres in size. Specific development standards and allowable uses will be established for the PD as part of the development review process.

Zoning

The site contains two assessor’s parcels with separate zoning designations as follows

- APN 165-220-06 is approximately 2.2 acres in area and is zoned R2a-H, which is a single-family residential zoning classification with a Hillside Overlay. The minimum lot size for this zoning district is 2 acres.
- APN 165-220-07 is approximately 8.7 acres in area and is zoned PD-H, which is considered a floating zoning district with a Hillside Overlay. This district requires a Zoning Map amendment to establish permitted uses and development standards. The PD designation/process is required for all lots larger than 5 acres per General Plan Policy LU-10 (see above)

Property History

The project site exists as two assessors parcels however it is not clear how the assessment lots were created. The property shows up on tax records as early as 1977. The applicant will need to provide a chain of title to demonstrate the property was legally created.

PROJECT DESCRIPTION

The project involves a General Plan Amendment, a Zoning Amendment and development of a 10.92-acre site comprised of two parcels.

General Plan Amendment

The project will need to include a request for a General Plan Amendment to a land use designation that allows a range of 15-32 units per acre and also provide opportunities for retail uses. The proposed General Plan Amendment would need to include the following:

- Amendment to the General Plan Land Use Map to a land use designation that would accommodate the residential density range and commercial intensity proposed.
- Amendment to Exhibit 5 – *Floor Area Ratios in North San Rafael* to identify FAR for the commercial element of the project (which will depend upon the proposed Land Use designation).
- Potential Amendment to Exhibit 8 – *Building Height Limits in North San Rafael*.

General Plan Amendments are subject to consideration by the City Council with recommendation by the Planning Commission.

Zoning Amendment

The project site is located within two zoning districts: PD-H and R2a-H. General Plan Policy LU-10 Planned Development Zoning requires Planned Development Zoning for development on a lot larger than five acres in size. This requires a Zoning Amendment to create the PD Zoning to establish the allowable uses within the PD Zoning District, to define specific development standards for development of the site and to establish review process for any future development, changes to the project, or changes to the allowable uses.

Zoning Amendments are subject to consideration by the City Council with recommendation by the Planning Commission.

Environmental and Design Review for the Development Project

The project would qualify as a Major Physical Improvement to a vacant property thus requiring Environmental and Design Review. The design review process for this type of project would include Conceptual Design Review by the Design Review Board and a formal Design Review by the DRB with recommendations to the Planning Commission. The design review for this project will include an evaluation of the project for consistency City of San Rafael Design Guidelines, Hillside Design Guidelines and relevant zoning regulations.

Because this project will also include a General Plan and Zoning Amendment, all entitlements including Environmental and Design Review will receive final consideration by the City Council with recommendation by the Planning Commission.

Neighborhood Meeting

City Council Resolution 8037 requires a Neighborhood Meeting for a Planned Development rezoning. As such, the proposed project would be required to schedule a Neighborhood Meeting within the first 30 days of formal application submittal. In addition, the applicant will be encouraged to provide ongoing outreach efforts.

Development Project

The development proposal includes 180 multi-family units; 1,671 square feet of commercial space; and 1,368 square foot of community center and is more specifically described as follows:

Site Plan/Landscaping: The multi-family units would be contained in five (5) 3-story buildings. The plans specify a maximum height of approximately 50.2 feet for the residential buildings. The buildings would be placed parallel to the site's contours with three of the buildings located on the east side of the property within approximately 60 feet of the front property line and the other two residential buildings are proposed upslope about 40-50 feet to the west. The retail building and community building would also be located on the upslope. The height of these two buildings is not specified but they are proposed as single story buildings. A vehicle access roadway would provide access to the front of each of the buildings. Pedestrian walking path is proposed along the front property line and continues to the upper slope behind the residential buildings. The plans also show trails beyond the property line onto the public open space property. On the south side of the property the plans show continuation of the pedestrian paths meandering through play structures and an exercise station.

Parking would be provided within the lower basement level of the building and along the private roadway.

Access to the site would be from a private roadway connection to Los Gamos Drive. This connection is tied to an access easement that crosses the adjoining property to the east. Los Gamos Drive is a "dead end" street which terminates at the south end of the road (1401 Los Gamos Drive) near the project site. Access to Los Gamos Drive beyond is not possible due to existing development and restrictions applied as part of the prior approval of the office building at 1401 Los Gamos Drive. Therefore, the only access to Los Gamos Drive is from Lucas Valley Road.

Architecture: The project proposes 180 units contained in five (5) 3-story buildings. The buildings are rectangular in shape and are placed somewhat parallel to the front property line as well as parallel to the site contours. The buildings are a simple modern rectangular form with articulations that include the following:

- Each building is stepped up the hillside thus reducing the mass of the building visible from the roadway below.
- Balconies that are somewhat inset into the building as well as balconies that cantilever from the building.
- Gable roof elements on the third story over the third story balconies.
- Variation in materials and colors.

Colors and Materials: The building materials include a dark grey concrete base which forms the lower level parking for the building. The body of the building would be a mix of stucco, horizontal siding and vertical siding that would be painted mostly a dark gray with lighter shades of tan or beige. The colors and materials are very conceptual at this point and more detail will be provided as part of the formal review of the project with input from the Design Review Board.

ANALYSIS

SAN RAFAEL GENERAL PLAN CONSISTENCY:

There are numerous General Plan policies applicable to this project. Consistency with a General Plan is determined by reviewing the project proposal and weighing the goals and policies of all elements of the San Rafael General Plan 2020 in relation to the project. A table outlining the applicable General Plan policies will be provided as part of the formal review of the project. The Planning Commission is being asked to

provide feedback on certain General Plan Policies as outlined below. A more detailed analysis will be provided at a future date when the project is brought back for a formal recommendation. Below is a summary of the major Policy Issues for the Planning Commission to consider.

Land Use Element

Intensity of Development: The proposed project would entail development of a highly visible hillside property. This property has a General Plan Land Use Designation of Hillside Resource Residential due to site topography, visibility and proximity to public open space land. This land use classification is the within the lowest density range in the City and currently allows a maximum of 0.5 units per acre with a maximum of 5 units that could be permitted on this 10.92-acre site. The hillside upslope of this property has an Open Space (OS) General Plan Land Use Classification and beyond that is a highly visible ridgeline. For these reasons, the Hillside Resource Residential land use designation was established for this property in the General Plan 2000 and continued as part of the General Plan 2020 update to permit the lowest density allowed within the City.

The project proposes 180 units which is a density of 17 units per acre. Thus, the proposed project would require an amendment to reclassify the property to allow residential development within the highest density range (15-32 units per acre) allowed in the city and also allow development of the retail building and a community building. It is important to mention that a formal application will need to include evaluation of soils stability, visibility, site access, grading, open space, views etc.

Height: The proposed project consists of five (5) 3-story buildings that would reach a height of just over 50 feet. However, the applicant's measurement is based on the Zoning Ordinance measurement of height for non-hillside lots, which is measured from finished grade to mid roof height. For hillside lots, height is measured from natural grade and is the to the highest point of the structure. The applicant will need to provide more information on height based on the Zoning Ordinance definition of height for hillside lots, which may result in a lower building height. Nonetheless the project is still likely to exceed the maximum height limits. The General Plan Exhibit 8 identifies a maximum height of 36 feet for this property. If the Planning Commission is inclined to support the requested amendments to the GP Land Use Map and Zoning Map, the applicant will either need to amend Exhibit 8 to allow the proposed height or request a concession from required height limit. The applicant will be required the applicant to demonstrate to the city council that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project. In the past the City has evaluated this type of height concession through evaluation of a financial pro forma that demonstrates that the number of units and proposed height are needed to make the project economically feasible.

Development Standards: General Plan Policy LU10 Planned Development Zoning calls for the use of the Planned Development (PD) zoning designation for development of lots of 5+ acres. Because this is a 10.92-acre site, the project will require a Zoning Amendment to a PD zoning. The PD zoning is intended to allow for more flexibility in development of the site when such flexibility provides opportunity for protection of resources, open space, or to avoid a natural hazard area. Specific development standards and allowable uses are typically established as part of the PD zoning during the development review process. However, maximum heights and floor area ratios are outlined in the General Plan as Exhibit 5-floor area ratios and Exhibit 8- heights. Staff typically incorporates development standards that are in line with the type of development; in this case multi-family development standards. However, additional project specific development standards may be required.

Housing Element

There are a number of Housing Element Policies to consider in evaluating this project. Policy H-9-*Special Needs* calls for a mix of housing types at varying income levels to serve a diverse population including housing for single parents, students and young families. Policy H-14. *Adequate Sites* calls for assuring that an adequate supply of land is available to meet the housing needs of all economic segments in San Rafael. The City is obligated to provide its fair share of projected future Regional Housing Needs (RHNA). The City's fair share of housing is 1,007 units for the 2015-2023 RHNA Cycle as shown on Table 1 below.

Table 1 Housing Need v. Approved/Constructed Projects 2015-2023							
	Extremely Low	Very Low Income Households	Low Income Households	Moderate Income Households	Above Moderate Income Households	Total	% of Housing Need
Housing Need	120	240	148	181	438	1007	
Approved		10	53 (includes 43 ADUs)	2	196	261	26%
Constructed		1	25	11	104	141	14%
Total approved/constructed		11	78	13	300	402	40%
Total deficit	120	239	70	168	138	605	
Percent of units built	0%	4%	53%	7%	68%	40%	

San Rafael has little remaining vacant land available for large-scale development. Thus, much of the multi-family housing development has been on smaller infill sites (1628 Fifth Avenue) or by adding housing units on commercially developed lots (Northgate Walk) or demolition and reconstruction on developed sites (815 B Street; 703 Third Street). To date there has been a total of 402 units either approved or constructed for the 2015-2023 RHNA Cycle. The total approved/constructed represents a housing deficit of 605 units toward meeting our housing goals.

Additionally, recent legislation under Senate Bill 35 (SB35) requires a sliding scale, by-right process for certain development projects within jurisdictions that have not met their regional housing goals. Each year the City must report the number of units approved or constructed for that years reporting period. If the City does not meet its fair share housing obligation, the City will be required to provide a by-right process for new housing projects that provide a certain percentage of housing as affordable units. The sliding scale described above means that the City's obligation to apply the by-right process can be triggered when a project provides either 10% or 50% affordable housing units depending where the City falls in meeting the regional housing goals. With the by-right process, the City loses review authority for qualifying development projects until the City meets its required percentage up based on the state's determination for the next reporting period.

A General Plan Amendment to allow higher density housing on this lot could create another opportunity for the City to comply with its regional housing goals. The City would then have a buffer for meeting our housing needs for future years and potentially reducing our obligation to a by-right process thus, keeping review authority within our jurisdiction.

Community Design Element

General Plan Policies CD-6. Hillside and Bay and CON-12. Preservation of Hillside encourages preservation of hillside areas, especially where they may serve as a visual backdrop to urban areas. The project site is a hillside lot with a slope greater than 30 percent. The project will need to implement elements of the City of San Rafael Hillside Design Guidelines. In addition, the applicant will need to demonstrate that the proposed development will minimize grading, avoid significant trees, and include replacement of trees for those trees that will need to be removed to accommodate the proposed development. The applicant will also need to address General Plan Policy NH-157. Hillside Parcels, [West] of Los Gamos Drive which states:

“These steep, highly visible parcels above the YMCA and office building have limited access. Development shall be clustered to retain community-wide visible hillside resources. Access to the northern parcel is very difficult and should be considered through the adjacent southern parcel.”

Circulation Element

Traffic Impacts LOS & VMT

The applicant will be required to provide a traffic impact analysis that evaluates the projects Level of Service (LOS) impacts as well as impacts associated with Vehicle Miles Traveled (VMT). Trips from the project will be used to evaluate potential need for improvements at the project driveway to accommodate project-generated traffic. The need for turn lanes will be evaluated in terms of volume, adequacy of sight distance and safety considerations. In addition, the project may be required to contribute its fair share of improvements at the intersection of Los Gamos Drive and Lucas Valley Road. *General Plan Policy C-6. Proposed Improvements* requires that the project contribute to the following roadway improvements (listed in Exhibit 21):

Smith Ranch Road/Lucas Valley Road

Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities.

Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes.

Lucas Valley/Los Gamos

Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities.

Signalize intersection and coordinate with adjacent intersections.

Site Access Formal plans will need to show a roadway slope that complies with Department of Public Works and Fire Department slope requirements as well as Hillside Design Guidelines. *GP Policy NH-157 Hillside Parcels, East of Los Gamos Drive* recognizes this site as a steep, highly visible parcels and promotes that development of the site will need to be clustered to retain this community-wide visible hillside resources.

Open Space Element

The property is identified as a potential open space site in Appendix I of the General Plan. General Plan Policy OS-1. *Open Space Preservation* calls for the preservation of these site as they serve as delineators between neighborhoods and between adjacent communities, as wildlife habitat, and as visual assets for the community. While the City is not inclined to purchase this property, the applicant will need demonstrate compliance with OS-1b. *Preservation Opportunities* by showing an effort to preserve open space and provide access to the open space property uphill of the site. The plans submitted for review show how the applicant proposes to accomplish this by proposing development closer to the roadway, leaving a certain amount of area open, and incorporating pedestrian pathways. The plans also show pedestrian pathways

that extend beyond the project site. The applicant will need to clarify whether this is intended to be part of the project and if so the Environmental Document for the project will need to evaluate the potential effects of these off-site improvements. In accordance with General Plan Policy OS-3. *Open Space Use*. the applicant will need to demonstrate that every effort is made toward protection of natural value of open space and wildlife habitat areas such that open space areas are maintained indefinitely in a natural state and where feasible open space areas becomes a community resource.

Conservation Element

Drainageway/Wetlands -The property contains a drainage way that crosses the site in a west/east direction and eventually drains into Gallinas Creek. According to Marin Map this drainageway could qualify as a wetland. A biological assessment of the drainageway will need to be prepared to determine wetland and habitat value and to identify impacts and mitigation measures, including provision of appropriate setbacks and development parameters in compliance with *General Plan Policies CON-1. Protection of Environmental Resources, CON-2. Wetlands Preservation, and CON-3. Wetland Protection and Mitigation*. In addition, the project plans will need to show a 25 to 50-foot setback buffer from any drainage or wetland in compliance with *General Plan Policy CON-4. Wetland Setbacks and CON-6. Creek and Drainageway Setbacks.*, unless a lesser setback can be supported by the biological assessment.

Protection of Special Status Species

A biological assessment will need to be prepared to evaluate the potential presence of special status species and/or sensitive habitat in accordance with *General Plan Policies CON-9. Native and/or Sensitive Habitats, CON-10. Impacts to Sensitive Habitats, CON-11. Wildlife Corridors, CON-13. Threatened and Endangered Species, and CON-14. Special Status Species*. A biological assessment will need to include absence of presence of species; identify areas that are considered riparian; potential for impact; and identify recommended mitigation measures to minimize impacts.

Wildland Urban Interface

The project is located on or near the Wildland Urban Interface. The applicant will need to demonstrate compliance with *General Plan Policies S-31. New Development in Fire Hazard Areas and compliance with fire department requirements for new development*.

ZONING ORDINANCE CONSISTENCY

If the Planning Commission is supportive of the requested General Plan Amendment, the project would need to demonstrate consistency with applicable regulations of the Zoning Ordinance and provide justification for any deviations that would be proposed as part the PD Zoning. This includes the request for height concession. A more detailed Zoning Consistency discussion will be provided as part of the formal review for the project. The following topics are relevant to the project and will to be addressed by the applicant:

14.16.030 - Affordable Housing Requirement

Affordable Housing Requirement Pursuant to Section 14.16.030 (Affordable Housing Requirements) of the Zoning Ordinance, projects proposing 21 or more housing units are required to provide 20% of the proposed units as affordable housing units. The applicant proposes 180 rental units, which means the project would have to dedicate 36 units for affordable housing. Because the project is a rental housing project the applicant would have to dedicate a minimum of fifty percent (50%) of the required affordable housing units to a maximum monthly rent of very low-income households. The remaining affordable housing units shall have rents that do not exceed the affordable monthly rent of low-income households. The applicant will need to demonstrate how they will comply with this requirement and demonstrate that the affordable units are dispersed throughout the development and reflect the same quality in construction as the market rate units.

APPLICABLE SITE AND USE REGULATIONS (CHAPTER 14.16)

The project will need to comply with applicable Site and Use Regulations established under Chapter 14.16, which include the following:

- 14.16.025 - Refuse Enclosure
- 14.16.140 - Fences and walls and 14.16.295 - Sight Distance
- 14.16.227 - Light and Glare; 14.18.170 – Lighting
- 14.16.243 - Mechanical Equipment Screening
- 14.16.370 - Water Efficient Landscaping

PARKING REGULATIONS CHAPTER 18

14.18.040- Parking Requirements

Total parking required on site would 343 spaces plus any additional parking for the community building as determined by a parking study. Parking breakdown is as shown on the following table:

Parking Requirement			
	Ratio	Number of units	Parking Required
Residential			
Studio	1/unit	30	30
1 bedroom	1.5/unit	60	90
2/3 bedroom	2/unit	90	180
Guest Parking	1/5 units	180	36
Community Building	Per parking study		
Retail	1/250	1671	7
TOTAL			343 (plus additional required for community building)

14.18.045 - Designated Parking for Clean Air Vehicles

Parking spaces serving new nonresidential buildings shall be designated for any combination of low-emitting, fuel-efficient, and carpool/van pool vehicles, as defined by Section 5.102 of the California Green Building Standards Code, California Code of Regulations, Part 11 of Title 24. Although EV station and pre-wiring is not currently required for the residential component of this type of project, the applicant is strongly encouraging to provide and pre-wiring for EV units.

14.18.090 – Bicycle Parking

On November 19, 2018, the City Council adopted amendments to the Zoning Ordinance which expands the bicycle parking requirement to multi-family developments. The number of short- term bicycle parking spaces required is equal to five percent (5%) of the required automobile spaces. Plans submitted for formal review will need to demonstrate how bicycle parking will be accommodated and shall comply with design standards pursuant to section 14.18.090(E) of the SRMC.

RESIDENTIAL AND NON-RESIDENTIAL DESIGN GUIDELINES

The San Rafael Design Guidelines (City Council Resolution No. 11667; adopted November 15, 2004) strive to improve the design of all residential and non-residential development. The project is subject to the City of San Rafael Residential and Non-Residential Design Guidelines. The entire text of the San Rafael Design Guidelines can be access on the City's web page using the following link:

<http://docs.cityofsanrafael.org/CommDev/Planning/documents/design-guidelines.pdf>

The following relevant design criteria should be considered as part of the formal application:

Building Design

- Building facades should be varied and articulated
- Design techniques should be used to break up volume of larger buildings
- Incorporate the use of stepped facades.
- Consider existing adjacent buildings and use transitional elements to minimize height.
- Screen rooftop equipment
- Minimize impact of roof vents
- Orient entrances to the street and provide a well-defined sense of entry from the street.
- Windows facing rear and side yard should consider privacy of adjacent neighbors
- Windows should be directed toward the street and public areas to provide surveillance
- Light fixtures should shield to prevent glare

Site design

- Provide adequate vehicle maneuverability
- Use alternative materials to minimize large paved areas
- Front yard landscaping should contribute to the overall visual quality of the neighborhood
- Fences in front yard should include details that are consistent with the architecture of the residence

Hillside Residential Design Guidelines

The San Rafael Hillside Design Guidelines contain design criteria intended to protect natural hillside lots by providing review criteria. The following should be considered as the formal review of the project:

- Preservation of natural features
- Minimize grading to preserve natural features
- Avoid large graded terrace areas
- Avoid hazardous or unstable portions of the site.
- Use split level building terraces to reduce pad size
- Minimize height, size, and visibility of retaining walls.
- Minimize impervious surface.
- Address drainage, erosional control during the application process.

DISCUSSION

This Pre-application Study Session is intended to solicit the Commission's initial review and preliminary feedback on the main land use/policy matters associated with this project. This process is an off-shoot of the conceptual design review process, which was established in 2010 based on public feedback, that projects were submitted at time of formal submittal with extensive investment put into the plans, materials and technical studies and the public and decision-makers did not have a chance to weigh in on a project during its early stages. Therefore, conceptual review is meant to be conceptual in nature, with limited detail on plans and without technical studies.

Given that the key issues for this project is whether there is support for a General Plan and Zoning Map amendment to change the density for the site from the lowest to the highest allowable, staff is first referring the conceptual review application to the Commission for input. This provides opportunity for comment by both the Commission and the community regarding policy concerns earlier in the process. If the applicant chooses to proceed with a formal application subsequent to the Study Session, they will need to address those issues and concerns identified during the conceptual review process. Following the Commission's

review and preliminary input, the item will be scheduled to be reviewed by the DRB for design-related input. All comments provided by the Planning Commission and DRB will be provided to the applicant.

There are a number of pros and cons for the Commission to think about in contributing comments about this project. There are also a number of unknowns that will need to be addressed by the applicant as part of the formal application process. For this reason, it is important that the applicant and community members understand that input provided by the planning commission is very preliminary. The following is a list of Pros and Cons and some unknowns of the Planning Commission to think about in providing feedback to the applicant:

Pros

- The requested amendments would allow development of additional rental housing with smaller unit sized, thus contributing to the mix of rental housing stock within the City.
- The project would contribute to the City fair share contribution to the Regional Housing Needs.
- Adding another large vacant parcel to the list of possible multi-family development sites would reduce the possibility of SB35 by-right processing obligations for the City, thus keeping local control of multi-housing developments.

Cons

- The project site is on a hillside lot that is highly visible from the freeway
- The site is on the eastern edge of public open space and is currently identified as a potential open space site.
- There are unknowns about the projects potential traffic impact on the nearby intersection and roadway system.

Unknowns

The applicant will need to go through a formal review process that will include Environmental (CEQA) Review. This will require the applicant prepare a number of studies including but not limited to:

- Geotech report
- Biological Assessment
- Traffic Study
- Greenhouse Gas Assessment
- Health Risk Assessment
- Hydrology and drainage
- Vegetation Management Plan

A full list of technical reports will be determined at time of a formal submittal.

The following are the main issues associated with the proposed project that the Planning Commission should comment on:

Intensity of Development

Land Use: The proposed project would entail development of a highly visible hillside property. The property is currently within the lowest density range in the City and currently allows a maximum of 0.5 units per acre with a maximum of 5 units that could be permitted on this 10.92-acre site. The applicant requests a general plan amendment to allow 180 units which is a density of 17 units per acre and also allow development of the retail building and a community building.

- ***The Planning Commission is asked to provide comments/concerns on the intensity of development and appropriateness of this level of intensity for this site, given that this is a hillside property adjacent to Open Space upslope of the project site.***

Height: The proposed project consists of five (5) 3-story buildings that would reach a height of just over 50 feet. The General Plan Exhibit 8 identifies a maximum height of 36 feet for this property. If the Planning Commission is inclined to support the requested amendments to the GP Land Use Map and Zoning Map, the applicant will either need to amend Exhibit 8 to allow the proposed height or request a concession from required height limit. The applicant will be required the applicant to demonstrate to the city council that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project. In the past the City has evaluated this type of height concession through evaluation of a financial pro forma that demonstrates that the number of units and proposed height are needed to make the project economically feasible.

- ***The applicant will either need to amend Exhibit 8 to allow the proposed height or request a concession from required height limit to allow the 50-foot high buildings. The Planning Commission is asked to weigh-in on the appropriateness of the proposed height.***

Housing Needs

The project proposal is for a General Plan and Zoning Map amendment that would allow for high density residential development on what is currently the lowest density range. The increase in density would contribute more housing opportunities and potentially fill a need within the middle-income range given the lower unit sizes. In addition, this project could create another opportunity for the City to comply with its regional housing goals, providing the City a buffer for meeting our housing needs for future years and potentially reducing our obligation to a by-right process and keeping review authority within our City.

- ***The Planning Commission is asked to weigh in, provide comments and, if needed, request additional information from the applicant regarding the requested amendments as they relate to addressing the City's housing needs.***

Hillside Development

The project site is a hillside lot with a slope of 30% or greater. *GP Policies CD-6. Hillside and Bay and CON-12. Preservation of Hillside and GP NH-15 Hillside Parcels, [West] of Los Gamos Drive* encourages preservation of hillside areas and calls for clustering of development on highly visible hillside lots, especially where they may serve as a visual backdrop to urban areas.

- ***The Planning Commission is asked to weigh in on the proposed development and provide the applicant feedback on whether the site plan demonstrates an appropriate clustering of buildings in a way that respects the hillside lot and the intent of these policies.***

Open Space

The property is identified as a potential open space site in Appendix I of the General Plan. General Plan Policy OS-1. *Open Space Preservation*, OS-1b. *Preservation Opportunities* and OS-3. *Open Space Use* call for or the preservation of open space site as they serve as delineators between neighborhoods and between adjacent communities, as wildlife habitat, and as visual assets for the community. The applicant should demonstrate an effort to preserve open space and provide access to the open space property uphill of the site. The plans submitted for review show how the applicant proposes to accomplish this by proposing development closer to the roadway, leaving a certain amount of area open, and incorporating pedestrian

pathways. The plans also show pedestrian pathways that extend beyond the project site onto opens space land.

- ***The Planning Commission is asked to provide feedback on whether the applicant is doing enough to preserve open space in a way that was intended by the General Plan Open Space policies.***

Other Comments:

The above items are the major topic areas where staff would like input from the Commission. Other issues identified in the analysis section would require input from experts via the submittal of technical documents. However, the Commission's role as the land use body for the city, may have other comments on other topic areas that will need to be addressed. Staff welcomes any additional input and contribution from the Commission.

The applicant and the City will use the Planning Commission's comments to guide the next phase of development review for this project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This Study Session is for review of a Pre-Application/Conceptual Review application is not considered "project" under the California Environmental Quality Act (CEQA), and therefore, CEQA is not required for this conceptual review. This is due to the fact that no decisions to approve or deny the project will be made on the Pre- Application/Conceptual review application.

As part of the formal application the applicant will be required to submit complete and detailed plans, and all required technical studies. Staff will then prepare an Initial Study to determine the level of CEQA review that will be required. Based on the results of the Initial Study, either a Negative Declaration/mitigated Negative Declaration or an Environmental Impact Report (EIR) will be prepared.

PUBLIC NOTICE/ CORRESPONDENCE

Notice for this Study Session was by the Planning Commission, was conducted in accordance noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Meeting was mailed 15 days in advance of the meetings to all property owners, residents, businesses and occupants within a 300-foot radius of the project site and to representatives of the Mont Marin/San Rafael Park Neighborhood Association and to the Federation of San Rafael Neighborhoods.

All comments received to date are attached to this staff report.

CONCLUSION

Study Session Review is part of the City's ongoing commitment to find ways for early feedback in hopes of streamlining the project review process. This concept has been used for the past couple of years and has been effective in providing guidance to the applicant as they prepare for a formal review. Staff continues to encourage applicants to bring projects before the Commission for their review so that they may provide comments which may also have land use policy implications. Staff has identified key issues:

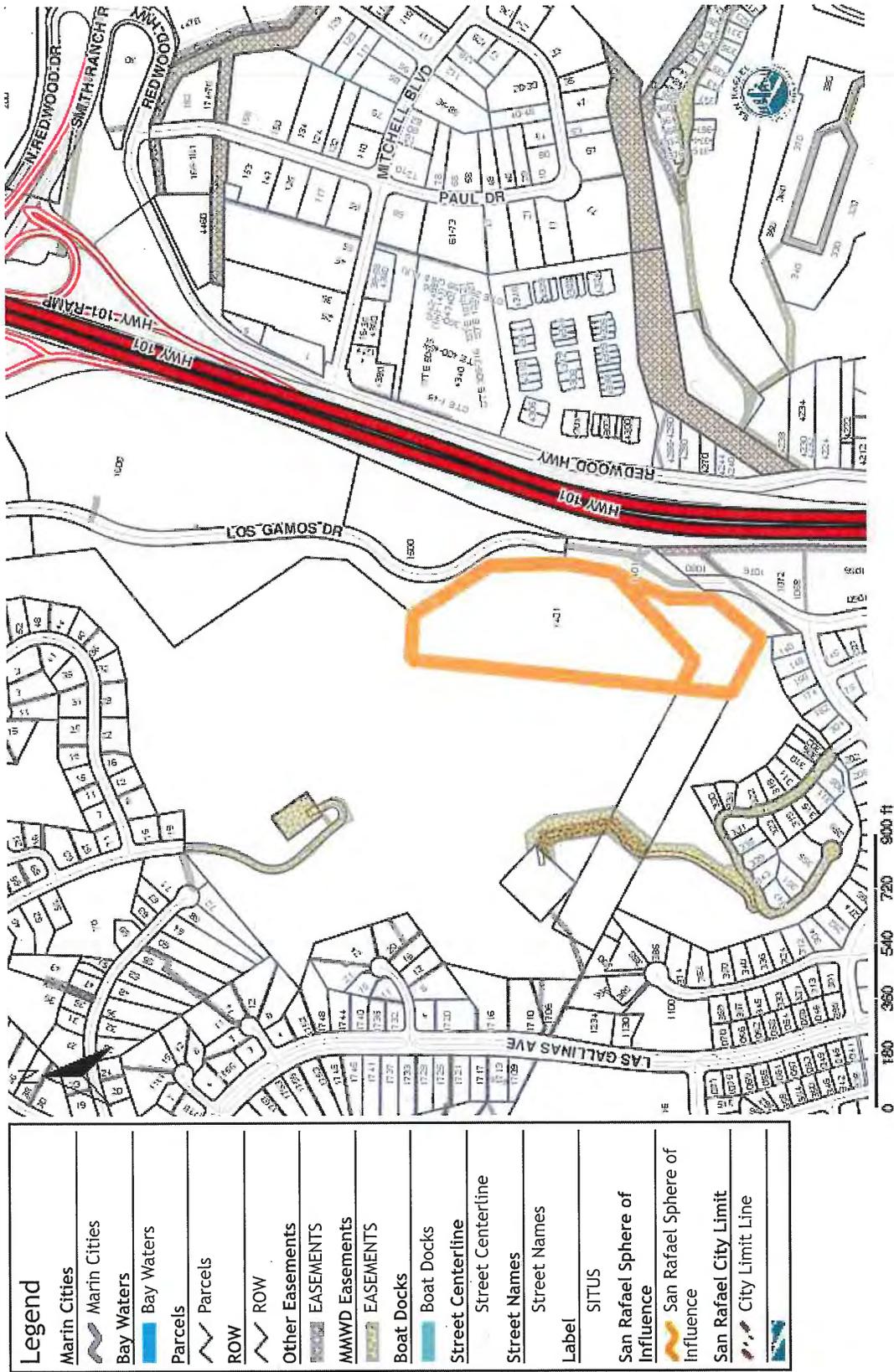
- Intensity of development-including density and height
- Housing Needs and project contribution to meeting that need.

- Hillside development
- Protection/preservation of open space

The Planning Commission is asked to provide feedback on these key issues and on any other issues the Planning Commission deems appropriate.

EXHIBITS

1. Vicinity/Location map
2. Applicant's Project Description
3. Pre-application letter
4. Hillside Design Guidelines for Multifamily
5. General Plan Consistency Table
6. Correspondence received
7. Project Plans *Reduced (11" x 17") color plan sets have been provided to the Planning Commissioners only. Digital copy of the project plans can be viewed using the following link:*
<https://www.cityofsanrafael.org/documents/the-neighborhood-at-los-gamos-plans/>



The Neighborhood at Los Gamos - Project Narrative

Introduction and Project Description

The “Neighborhood at Los Gamos” (“the Neighborhood”), a small pocket neighborhood of 60 condominiums and 125 apartments will provide much-needed housing in San Rafael. The project is boldly designed to serve the “missing middle” within the community, including housing for the local workforce such as teachers and first responders.

Located on nearly 11 acres along US 101, in north San Rafael, the development will consist of 11 multi-family, elevator served, residential buildings clustered on the lower portion of the large site to create new open space between the project and the ridge above. To help encourage neighborhood character and identity, two small community-serving buildings are included in the neighborhood design.

The Project site is located on a hillside to the west of Los Gamos Drive, in a mixed-use office/commercial area that includes the YMCA, Kaiser Permanente, the County of Marin, and other major employers. The site consists of two parcels. APN 165-220-07 is 8.82 acres and currently zoned PD-H (Planned Development-Hillside Development Overlay District). APN 165-220-06 is 2.10 acres and currently zoned R2a-H (Residential-Hillside Development Overlay District). Anticipated entitlements to be requested as part of the Project include an amendment of the General Plan to change the land use designation from HRR (Hillside Resource Residential) to HDR (High Density Residential) for a proposed development density of approximately 21 units per acre, rezoning of both parcels to PD (Planned Development) District, Design Review and Conditional Use Permit(s) as may be necessary.

Neighborhood vehicle trips generated by this housing development will not pass by any existing residential homes. The property is located 0.3 miles walking distance to the Lucas Valley bus pad at Highway 101 (Stop ID: 40606) and 0.4 miles walking distance to the Freitas Parkway at Northgate Drive bus pad (Stop ID: 40569).

Amenities

In addition to the creation of workforce housing, the Neighborhood will benefit the City of San Rafael and its residents through site enhancements that provide connectivity through hiking and biking trails to nearby public open space. Additional improvements include the installation along the exterior ring trail of exercise stations for use by the public, such as patrons of the neighboring YMCA in a collaborative partnership. These enhancements will also result in the reduction of fire threat posed by the currently vacant and underutilized property.

Affordable Housing

As demonstrated by the size of the units below, the Neighborhood is “affordable by design,” a concept which incorporates better uses of design to increase the efficiency of smaller spaces. The result is a price point that reflects what is referred to as the “missing middle.” In principle, these residences will be targeted to those who do not qualify for affordable housing yet find traditional San Rafael market-rate housing out of their reach.

Additionally, the Neighborhood will provide affordable units consistent with the City’s affordable housing requirements. The mix of these affordable units will be spread throughout the buildings within the Neighborhood.

Other “green” design elements of the Project could potentially include:

- Solar panels
- Pre-wiring for electric automobiles and electric bicycles
- Clustering of buildings to retain communitywide visible hillside resources
- Grey Water - Landscape with LEED & Rain Bird Products
- Carbon Neutral Construction Materials, such as Bamboo Wall Framing - allowing for lowest heat transfer ratios and naturally slow burn rates.
- Enhanced Fire Safety perimeter, such as the Rain Bird XLR Series Water Jet (up to 188’ radius)
- Water efficient plumbing fixtures
- Energy Efficient appliances
- Onsite composting for use within community garden

Proposed Project

The mix of units for the Neighborhood is presented below:

<u>Condominiums</u>	Types	# of units	Square Feet
	1 Bedroom	12	602
	2 Bedroom	36	948
	3 Bedroom	12	1135

Total Condominiums

60

The Neighborhood at Los Gatos is an unparalleled opportunity to support the community members within our “missing middle” by design and through deed restricted units. A Marin modern approach to design and energy efficiency, with a ready to build, today, development.



August 5, 2019

Colin Russell
990 A Street, Suite 202
San Rafael, CA 94901

**RE: PA19-005 – Pre-application for a 185-unit Multi-family development
Los Gamos Drive; APN Nos. 165-220-06 &-07.**

Dear Mr. Russell:

Thank you for your submittal of a pre-application (PA19-005) for a 185-unit Multi-family residential development on a vacant hillside property (2 lots). This comment letter is intended to provide information to help you understand the development review process, review criteria, and some of the issues that can be identified this early in the process. Comments from other departments received to date are included as attachments.

I have provided a list of issues, under the *Primary Issues to Consider* Section below. Staff's primary concern is the dramatic change in intensity of development (including density and height) on what is currently a highly visible hillside property adjacent to open space land. In addition, the project design does not incorporate elements of good hillside design. There are a number of General Plan Policies that relate to hillside design. This preapp letter includes a list of relevant hillside design policies in the *Primary Issues to Consider Section* (Hillside Development). This project will need input from the Design Review Board as part of conceptual design review and formal environmental and design review process.

A neighborhood meeting is required for this type of project through the City's process. However, I recommend you begin early outreach prior to your submittal to get a sense of the primary concerns of the surrounding neighborhoods (including residential and commercial communities).

PROJECT DESCRIPTION

The project involves a General Plan Amendment, a Zoning Amendment and development of a 10.92-acre site comprised of two parcels. The development proposal includes 185 multi-family units; 1,671 square feet of commercial space; and 1,368 square feet of recreation area. Access to the site would be from a private roadway connection to Los Gamos. It is unclear how the existing lots were created and more information will be required to established the legal status of these lots.

ENTITLEMENTS

General Plan Amendment -General Plan 2020

The General Plan 2020 can be accessed online through the city website at:

www.cityofsanrafael.org/generalplan-2020.

The property currently has General Plan Land Use designation of HRR (Hillside Resource Residential) which allows a density of 0.1 -0.5 units per /gross acre. This translates to a maximum gross density of 5 units based on the existing lot area of 10.92 acres. As you are proposing a total of 185 units as well as a retail component, your project will need to include a request for a General Plan Amendment to a land use designation that allows a range of 15-32 units per acre and also provide opportunities for retail uses. In accordance with General Plan Policy LU-10 Planned Development Zoning, a Planned Development zoning will be required for development on lots larger than five acres in size. Specific development standards and allowable uses will be established for the PD as part of the development review process.

The proposed development would require a General Plan Amendment that would need to include the following:

- Amendment to the General Plan Land Use Map to a land use designation that would accommodate the residential density range and commercial intensity proposed.
- Amendment to Exhibit 5 – *Floor Area Ratios in North San Rafael* to identify FAR for the commercial element of the project (which will depend upon the proposed Land Use designation).
- Potential Amendment to Exhibit 8 – *Building Height Limits in North San Rafael*.

Regardless of the request to amend the land use designation the project will need to demonstrate compliance with applicable General Plan Policies and Zoning Code requirements outlined under the *Primary Issues to Consider* section below. The full list of General Plan Policies that will be considered as part of the formal review can be accessed online through the city website at:

www.cityofsanrafael.org/generalplan-2020

Zoning Amendment

Portions of the project site are zoned Planned Development with Hillside overlay (PD-H). The purpose of the PD is to allow innovative design on large sites, by allowing flexibility in development standards, promote clustering on large site to avoid sensitive areas, as well as other reasons cited in SRMC 14.07.010. In addition, General Plan Policy *LU-10 Planned Development Zoning* requires Planned Development zoning for development on a lot larger than five acres in

size. Specific development standards will be established for the PD as part of the development review process.

Conceptual Design Review

Prior to formal submittal, the project is subject to Conceptual Design Review by the Design Review Board (DRB). This process allows the applicant and the DRB to work together to achieve a quality design by providing opportunity for the board to identify and discuss relevant issues and appropriateness of the design approach. Submittal materials shall include a level of detail adequate to show the architect's analysis of the site and site issues and to explain the proposed design solution. At minimum the following is required for conceptual design review:

- Site plan
- Floor plans
- Building elevations with sufficient detail to convey the proposed design direction.
- Colors and materials/Presentation board

Note: Your Preapplication included a Conceptual Design Review submittal. We have postponed the DRB meeting on Conceptual Design Review at your request. Once you have reviewed the preapplication letter and are ready to proceed with a DRB review, We will be happy to work with you on a schedule.

Environmental and Design Review

The project qualifies as a major physical improvement that is subject to review by the Design Review Board. Recommendations will be forwarded to the Planning Commission for a final recommendation to the City Council. Pursuant to Zoning Code Section 14.02.020 - General rules for applicability of zoning regulations, the City Council will be the decision-making body, since this project will also involve legislative changes which are the purview of the City Council. The design review for this project will evaluate the project for consistency City of San Rafael Design Guidelines as well as relevant zoning regulations. Plans submitted for formal Environmental and Design Review shall be the minimum necessary to convey the design proposed and incorporate elements provided by the DRB guidance during Conceptual Design Review. In general, staff has concerns about the project direction in that it does not incorporate elements of good hillside design. We recommend you review the City's Hillside Design Guidelines to guide design of the project. These can be found via the following link:

<https://www.cityofsanrafael.org/documents/hillside-design-guidelines-hillside-residential-development-projects/>

You can also use the following pdf as a general guide:

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/Hillside-Guidelines-Handout.pdf>

At minimum, the formal application for Environmental and Design Review shall include the following submittal items:

- Project narrative
- Site plan
- Landscape plans
- Floor plans
- Building elevations
- Building and site cross sections
- Color and materials board.
- Illustrative rendering, model or 3-D exhibit or plan sheet, or computer rendering of the project in context with surroundings.
- Poststimulation
- Preliminary title report.
- Chain of title
- Preliminary construction phasing, staging and management plan.

The fee required for Environmental and Design Review is a \$8,523 to be submitted as a deposit. Staff will bill against the deposit and may require replenishment should the deposit be depleted.

Major Subdivision - Tentative Map

For sale condominiums will required compliance with the provisions of Chapter 15.12, including but not limited to, provision of recreational building, bicycle paths and common areas for active and passive recreation throughout the development. The project will be requires a Tentative Subdivision Map application, which shall be prepared by a registered civil engineer or licensed surveyor and reviewed by the Planning Division and all other applicable City departments. In addition, to submittal items listed above, the following will be required for a Tentative Map application:

- A description of the existing use(s) of the subject property;
- A description of the proposed use(s) of the subject property. If property is proposed to be used for more than one purpose, the area, lots or lot proposed for each type of use shall be depicted on the tentative map;
- A statement of the proposed improvements including public utilities, water supply and sewerage disposal, how these improvements are to be made or installed, and the estimated timing of when such improvements are to be completed;
- A description of proposed public areas and dedications, if any;
- A description of proposed tree removal and new planting, if any;
- A description of proposed restrictions, covenants or easements, if any;
- A list of any and all requests for exceptions (Section 15.01.120) from the provisions of this title and a written statement citing the justification and reasons for approval of these exceptions; and

- An area plan at a scale of one-inch equals three hundred feet (300'), or larger, showing proposed streets, subdivision boundaries, existing streets and property lines, in the vicinity, which affect, or may be affected by, the proposed subdivision.

The fee required for a Tentative Map is \$7,293.00 to be submitted as a deposit. Staff will bill against the deposit and may require replenishment should the deposit be depleted.

California Environmental Quality Act

Under the requirements of the California Environmental Quality Act (CEQA), the proposed project would be subject to environmental review and will require preparation of an Environmental Impact Report to identify and evaluate potential significant impacts to the environment. The following studies will be required for preparation of the EIR:

Studies required: three (3) sets of preliminary studies prepared for the project as follows:

- Greenhouse Gas Assessments
- Health Risk Assessment
- Biological Assessment
- Vegetation Management Plan
- Arborist Report
- Noise Study
- Traffic Study (LOS and VMT)
- Geotech Report
- Grading Plan
- Hydrology and Drainage Plan
- Stormwater Management Plan

The fee required for CEQA review is an initial deposit of 12,556.25. This fee is intended to cover overhead cost and limited amount of planner time. Additional time spent on the CEQA review that is not covered by the above fee will require replenishment of the account. In addition, the City will seek an outside consultant to prepare the EIR documents. The fee required for an EIR is the actual cost of consultant +25% surcharge for staff review and contract administration.

Neighborhood Meeting

The Conceptual Design Review hearing at the DRB and all hearings at the Planning Commission and City Council are public hearings and are required to be noticed to owners and occupants within 300 feet of the project site. In addition, City Council Resolution 8037 requires a Neighborhood Meeting for a Planned Development rezoning. As such, the proposed project would be required to schedule a Neighborhood Meeting within the first 30 days of formal application

submittal. The procedures for the Neighborhood Meeting are stipulated in the attached City Council Resolution 8037.

A neighborhood meeting is typically attended by staff. As such an additional deposit of \$1,444 is required.

PRIMARY ISSUES TO CONSIDER

The proposed development will require a General Plan Amendment that will need to include the following:

- Amendment to the General Plan Land Use Map to a land use designation that would accommodate the residential density range and commercial intensity proposed.
- Amendment to Exhibit 5 – Floor Area Ratios in North San Rafael to identify FAR for the commercial element of the project.
- Amendment to Exhibit 8 – Building Height Limits in North San Rafael.

The primary issues associated with the project include:

The following is a list of issues that staff has identified at this time along with relevant General Plan Policies and Sections of the San Rafael Municipal Code to consider. A full list of General Plan Policies are contained in General Plan 2020, which can be accessed online through the city website at:

www.cityofsanrafael.org/generalplan-2020

The San Rafael Municipal Code can be accessed through the following link:

https://library.municode.com/ca/san_rafael/codes/code_of_ordinances?nodeId=IT15SU_CH15.06SUDESTMIRE_15.06.040LOAC

Intensity of Development

The proposed project would entail development of a highly visible hillside property. This property has a General Plan Land Use Designation of Hillside Resource Residential due to site topography, visibility and proximity to public open space land. In addition, the hillside is downslope of a highly visible ridgeline. For these reasons, this land use designation was established for this property in the General Plan 2000 and continued as part of the General Plan 2020 update to permit the lowest density allowed within the City. As mentioned above, the proposed project will require an amendment to several section of our General Plan 2020. Your request will need to provide justification for such a dramatic change in land use designation from one that allows densities within the lowest allowable range within the City to a land use designation that allows density within the highest allowable range within the City.

Development Standards

The project will require a Zoning Amendment to a Planned Development zoning. Specific development standards and allowable uses will be established for the PD as part of the development review process. However, maximum heights and floor area ratios are outlined in the General Plan as Exhibit 5-floor area ratios and Exhibit 8- heights.

Traffic Impacts LOS & VMT

Comments from Department of Public Works are forthcoming. However, we have provided the following list of General Plan Policies that will need to be considered as part of the project. Keep in mind that a traffic study will need to be submitted for review by our traffic engineer. I recommend you submit a review of Memorandum of Assumptions for review by our traffic engineer. This is a preliminary review intended to provide guidance on methodology and assumptions that will be part of the traffic study. It usually includes: project description, trip generation, trip distribution, analysis methodologies, and a scope of services. It is likely that a final traffic study will need to include Level of Service Analysis as well as VMT analysis. As a reference point, you should review of the recently certified Kaiser Permanente EIR (<https://www.cityofsanrafael.org/documents/appendix-5-transportation-impact-analysis/>) certified by the City Council on September 17, 2018, to get a sense of the level of detail and expected improvements that are part of that project.

- *C-6. Proposed Improvements.*

The proposed circulation improvements in Exhibit 21 have been identified as potentially needed to improve safety and relieve congestion in San Rafael over the next 20 years. Major Proposed Circulation Improvements include those improvements deemed necessary to maintain City LOS standards. Other recommended roadway improvements, include additional improvements that may become necessary in the long-term and are desirable to enhance San Rafael's circulation system, but are not necessary to maintain LOS standards. Specific improvements will be implemented as conditions require, and will be refined during the design phase. Recognize that other feasible design solutions may become available and be more effective in achieving the same goals as the improvements listed in Exhibit 19, and allow for their implementation, consistent with the most recent engineering standards. As conditions change, planned roadway improvements may be amended, through the annual General Plan Review. Roadway improvements are implemented through the Capital Improvements Program, and are typically funded through a variety of sources, including Traffic Mitigation Fees. Environmental review is required. The project will be required to contribute to the following roadway improvements:

Exhibit 21

- Smith Ranch Road/Lucas Valley Road

- Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities.
- Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes.
- Lucas Valley/Los Gamos
 - Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities.
 - Signalize intersection and coordinate with adjacent intersections.

Site Access

Formal plans will need to show a roadway slope that complies with Department of Public Works and Fire Department slope requirements as well as Hillside Design Guidelines. In addition, plans shall demonstrate how the project will facilitate pedestrian connections through the project site as well as from the project site to neighboring uses and transit stops. My concern is that the access connection to Los Gamos has a slope of greater than 25% which far exceeds the roadway slope limits set by Title 15 of the San Rafael Municipal Code. Please also see the Entitlement Section-Major Subdivisions above for a list of standards that will apply to the project. All comments received by Public Works and the Fire Department are attached. The following General Plan policies relate to, and in some cases may conflict with the proposed site access:

- NH-157. Hillside Parcels, East of Los Gamos Drive.
These steep, highly visible parcels above the YMCA and office building have limited access. Development shall be clustered to retain community-wide visible hillside resources. Access to the northern parcel is very difficult and should be considered through the adjacent southern parcel.
- S-32. Safety Review of Development Projects.
Require crime prevention and fire prevention techniques in new development, including adequate access for emergency vehicles.
- NH-6. Bicycle- and Pedestrian-Friendly Streets.
Create bicycle-and pedestrian-friendly residential streets with large street trees, sidewalks and other appropriate amenities.
- C-23. Connections Between Neighborhoods and with Adjoining Communities.
Identify opportunities to improve pedestrian, bicycle and transit connections between San Rafael neighborhoods and between San Rafael and adjacent communities.
- C-23a. Better Signage. As opportunities arise, provide better signage, consistent with the Bicycle and Pedestrian Master Plan for bicycle,

pedestrian and transit routes to identify pathways between neighborhoods and other communities.

- C-27. Pedestrian Plan Implementation. Promote walking as the transportation mode of choice for short trips by implementing the pedestrian element of the City's Bicycle and Pedestrian Master Plan.
- C-27f. Disabled Access. Continue efforts to improve access for those with disabilities by complying with Federal and State requirements of the Americans with Disabilities Act (ADA). Seek to incorporate ADA improvements into street and sidewalk projects. Develop a program identifying street barriers to pedestrian access, and prioritize curb cut and ramp improvements.
- SU-1. Land Use. Implement General Plan land use policies to increase residential and commercial densities within walking distance of high frequency transit centers and corridors.
- SU-1a. Transportation Alternatives. Consider land use and transportation alternatives (better bicycle and pedestrian access and increased transit feeder service) to best use the future Civic Center SMART Station.
- SU-1b. Walkable Neighborhoods. Determine areas in need of sidewalk improvements, land use changes, or modified transit stops to create walkable neighborhoods.
- SU-2e. Sidewalk and Street Improvements. Continue to implement sidewalk and bicycle improvements in accordance with the adopted Bicycle and Pedestrian Master Plan and the Safe Routes to School program.

In addition to the above General Plan Policies related to site access, the following is a list of development requirements contained in Title 15 of the San Rafael Municipal Code.

15.06.040 - Lot access.

(a) Access to public street. Except as approved as part of a planned development (PD) district, established in accordance with the provisions of Title 14 (Zoning), or, except as approved per Subsection (b), all lots or parcels created shall have frontage on a public street meeting the minimum requirements of this chapter for pavement and right-of-way widths.

(b) Approval of access over private right-of-way or private street. New lots or parcels proposed with access over a private right-of-way or private street, shall require the approval of the planning commission. An application for access over a private right-of-way or private street shall include a development plan showing alignment, width, grade and material specifications of any proposed private right-of-way, the topography and

means of access to each lot and the drainage of the subdivision. In considering the proposed access over a private right-of-way or street, the planning commission shall not approve the access unless it finds that such access will not be detrimental to the health, safety and welfare of the existing residents or future residents and that the design of the improvements is adequate to provide access for emergency service vehicles. Approval of such access shall be conditioned to require that appropriate measures be implemented which guarantee permanent maintenance of the private driveway.

15.06.070 - General design conditions for streets.

(a) All streets shall, as far as practicable, be in alignment with existing adjacent streets by continuation of the center lines.

(b) Streets shall be required to intersect one another at an angle as near to a right angle, as is practicable in each specific case.

(c) Where necessary to give access to or permit a satisfactory future subdivision of adjoining land, streets shall extend to the boundary of the property and the resulting dead-end streets may be approved without a turnaround provided that control of access across such dead-end street shall be vested in the city. In all other cases a turnaround having a minimum radius of forty feet shall be required.

(d) Intersection corner rounding. Whenever a major street intersects any other street or highway, the property lines at each block corner shall be rounded with a curve having a radius of not less than thirty feet (30'). On all other street intersections, the property line at each block corner shall be rounded with a curve having a radius of no less than twenty-five feet (25'). In either case, a greater curve radius may be required if streets intersect other than at right angles.

(e) Curve radius. The center line curve radius on all streets and highways shall conform to accepted engineering standards of design and shall be subject to approval by the city engineer.

(f) Grades of streets and highways. No street or highway shall have a grade of more than twelve percent (12%), unless, because of topographical conditions or other exceptional conditions, the city engineer determines that a grade in excess of twelve percent is necessary, provided that such grade not exceed eighteen percent (18%).

(h) Connections between private vehicular accessways and public streets shall be by a standard commercial driveway connection, unless an alternative is approved by the city engineer.

(i) Vertical concrete curbs and gutters or concrete valley gutters shall be installed to convey storm water runoff. Rolled curbs shall not be allowed.

(j) Private vehicular accessways shall be identified as a "private street." A signpost to which is attached a sign having a size of at least fifteen inches (15") by twenty-one inches (21") shall be installed at or near the entrance of each intersection of a private vehicular accessway with a dedicated public street. The name of the accessway shall be placed on this sign in clearly legible four-inch (4") letters. The sign shall also have

painted, in at least one-inch (1") letters "Private property. Not dedicated for public use or maintained by the city of San Rafael."

15.07.030 - Street, driveway and parking standards.

(a) Narrower street widths (acceptable to the city engineer and other city departments) can be approved when it will reduce grading impacts and the number of lots, topography, and the level of future traffic development justifies the reduction. Twenty-five feet (25') is the minimum width requirement for a public street.

(b) Each lot shall have a private driveway, the grade of which shall not exceed eighteen percent (18%), with adequate provision for ingress and egress. With a supportive recommendation from the design review board and city departments, an exception may be granted to allow grooved driveways with a grade of eighteen to twenty-five percent (18-25%), when it will result in a project which has fewer impacts on grading, trees and views.

(d) No private street leading to a private driveway on a lot shall exceed a grade of eighteen percent (18%).

Geotechnical

The property is located within an area that has "few landslides." As required for all hillside development, the project will need to submit a geotechnical report that identifies potential geological hazards including soil stability and seismic hazards. The following General Plan policies apply to this project:

- S-4. Geotechnical Review.
Continue to require geotechnical investigations for development proposals as set forth in the City's Geotechnical Review Matrix (Appendix F). Such studies should determine the actual extent of geotechnical hazards, optimum design for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.
- S-5. Minimize Potential Effects of Geological Hazards.
Development proposed within areas of potential geological hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Development in areas subject to soils and geologic hazards shall incorporate adequate mitigation measures. The City will only approve new development in areas of identified hazard if such hazard can be appropriately mitigated.
- S-7. Minimize Potential Effects of Landslides.
Development proposed in areas with existing landslides or with the potential for landslides (as identified by a registered engineering geologist or geotechnical engineer) shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Development in areas subject to landslide hazards shall incorporate

adequate mitigation measures that have a design factor of safety of at least 1.5 for static conditions and 1.0 for pseudo-static (earthquake) conditions. The landslide mitigation should consider multiple options in order to reduce the secondary impacts (loss of vegetation, site grading, traffic, visual) associated with landslide mitigation. The City will only approve new development in areas of identified landslide hazard if such hazard can be appropriately mitigated.

Open space

The property is identified as a potential open space site in Appendix I of the General Plan. General Plan Policy OS-1. Open Space Preservation calls for the preservation of these site as they serve as delineators between neighborhoods and between adjacent communities, as wildlife habitat, and as visual assets for the community. The following General Plan Policies relate to protection open space and open space access:

- OS-1b. Preservation Opportunities.
Through the development review process, preserve open space areas identified on the Open Space Inventory. Encourage the dedication of open space areas that are adjacent to public open space. Possibilities also include acquisition of fee title or acquiring easements for preserving open space. When potential open space is not contiguous to existing public open space, the preference is to retain the open space in private ownership. When portions of a site are retained as private open space, ensure the preservation and management of that open space through appropriate means, including required maintenance, as determined through development review. Work with other public and non-profit agencies to identify sources for acquisition and maintenance of open space.
- OS-1c. Cluster Development.
As part of the development review process, encourage the clustering of development to preserve desired open space.
- OS-3. Open Space Use.
Protect and preserve the natural value of open space and wildlife habitat areas while permitting educational and recreational uses compatible with these resources. Specific use objectives include:
 - Open space areas should be maintained in a natural state.
 - Open space areas are a community resource for use and enjoyment by the residents of San Rafael.
 - Uses of open space areas shall be secondary to open space preservation, and limited to those uses with a minimal impact on the environment.
- OS-3a. Management of Private Open Space.
In designating open space as part of a development project or with the dedication of land for open space, identify limitations to uses in those areas, such as restrictions on ornamental landscaping, structures and fences

- OS-4. Access to Open Space.
Encourage provision of access to open space areas in the design of adjacent development. Secure access paths shown on Exhibit 34 as part of subdivision approvals and design access paths to avoid or minimize neighborhood and user conflicts with sensitive wildlife habitat areas.
- OS-4a. Access Points.
Through the development review process, identify access points and parking areas to be retained and required improvements.
- CD-6c. Public Access Opportunities.
Continue to evaluate public access opportunities through the development review process

Drainageway/Wetlands

The property contains a drainage that crosses the site in a west/east direction and eventually drains into Gallinas Creek. According to Marin Map this drainageway could qualify as a wetland. Your formal application will need to include a biological assessment of the drainageway to determine wetland and habitat value and to identify impacts and mitigation measures, including provision of appropriate setbacks and development parameters. The following General Plan Policies relate to development that contains drainageways and possible wetlands:

- CON-1. Protection of Environmental Resources.
Protect or enhance environmental resources, such as ridgelines, wetlands, diked baylands, creeks and drainageways, shorelines and habitat for threatened and endangered species.
- CON-2. Wetlands Preservation.
Require appropriate public and private wetlands preservation, restoration and/or rehabilitation through compensatory mitigation in the development process for unavoidable impacts. Support and promote acquisition of fee title and/or easements from willing property owners.
- CON-3. Wetland Protection and Mitigation.
In order to protect and preserve valued wetlands, loss of wetlands due to filling shall be avoided, unless it is not possible or practical. This policy establishes wetland replacement ratios that would be deemed appropriate by the city (either 2:1 or 3:1 depending on the type of replacement proposed). However, the City will consult with and consider comments received from the appropriate resource agencies, including State of California Department of Fish and Wildlife and/or the California Regional Water Quality Control Board to determine actual replacement ratios, timing and location of replacement. (see full text of General Plan Policy CON-3 for more information)
- CON-4. Wetland Setbacks.

Maintain a minimum 50-foot development-free setback from wetlands, including, but not limited to, paving or structures. Setbacks of greater than 50 feet may be required on lots of two or more acres as determined through development review. The City may waive this requirement for minor encroachments if it can be demonstrated that the proposed setback adequately protects the functions of the wetland to the maximum extent feasible and resulting values to the satisfaction of the City after review by the appropriate regulatory agencies.

- CON-6. Creek and Drainageway Setbacks.
Require development-free setbacks, except for specific access points as approved per policy CON-7 (Public Access to Creeks), from existing creeks and drainageways that will maintain the functions and resulting values of these habitats. Appropriate erosion control and roadway crossings may encroach into the development setback. In the absence of vegetation, promote new growth of natural habitat.
 - Creek Setback. Maintain a minimum 25-foot development-free setback from the top of creek banks for all new development (including, but not limited to, paving and structures), except for Miller Creek and its tributaries, where a minimum 50-foot setback shall be maintained. Setbacks up to 100 feet may be required on lots or development projects two or more acres in size where development review determines a wider setback is needed to maintain functions and resulting habitat values and in areas where high quality riparian habitat exists. The City may waive this requirement for minor encroachments if it can be demonstrated that the proposed setback adequately protects the functions of the creek to the maximum extent feasible and resulting values to the satisfaction of the City after review by the appropriate regulatory agencies.
 - Drainageway Setbacks. Drainageway setbacks shall be established through individual development review, taking into account existing habitat functions and resulting values.
- CON-7. Public Access to Creeks.
Provide pedestrian access to points along creeks throughout the City where such access will not adversely affect habitat values.
- CON-8. Enhancement of Creeks and Drainageways.
Explore enhancement of, and support continuous upgrades to, drainageways to serve as wildlife habitat corridors for wildlife movement and to serve as flood control facilities to accommodate storm drainage. Require creek enhancement and associated riparian habitat restoration/creation for projects adjacent to creeks to maintain storm flows, reduce erosion and maintenance and improve habitat values, where feasible.

In addition, the project will need to comply with the following Zoning Code Section 14.16.080 which addresses drainage setbacks as follows:

Setback, Drainageway. Adequate setback from a drainageway shall be determined at the time of project review based on the setback criteria in subsection C below. C. Setback Criteria. Adequate setback between creeks and/or drainageways and a structure shall be determined based on the following criteria: 1. The setback provides for adequate maintenance, emergency vehicle access, adequate debris flow avalanche corridors, flood control and protection from damage due to stream bank undercutting; 2. The setback adequately protects and preserves native riparian and wildlife habitat; 3. The setback protects major view corridors and provides for recreation opportunities where appropriate; 4. The setback permits provision of adequate and attractive natural landscaping.

Protection of Special Status Species

Your formal application will require evaluation of impacts on special status species and sensitive habitats through preparation of a biological assessment. A biological assessment will need to include absence of presence of species; potential for impact; and identify recommended mitigation measures to minimize impacts. The following General Plan Policies related to protection of special status species are applicable to the project:

- CON-9. Native and/or Sensitive Habitats.
Protect habitats that are sensitive, rare, declining, unique or represent a valuable biological resource.
- CON-10. Impacts to Sensitive Habitats.
Minimize impacts to sensitive natural habitats including Oak Savannas and Woodland Habitats (CON10a) through careful planning. Require compliance with applicable laws and regulations.
- CON-11. Wildlife Corridors.
Preserve and protect areas that function as wildlife corridors, particularly those areas that provide natural connections permitting wildlife movement between designated sensitive habitats.
- CON-13. Threatened and Endangered Species.
Preserve and protect threatened and endangered species of plants and animals formally listed consistent with the state and federal endangered species acts including protection of their habitat.
- CON-14. Special Status Species.

Preserve and protect special status plants and animals, including candidate species for listing under the state and federal endangered species acts, California species of special concern, California Native Plant Society List 1B plants, and other species protected under provisions of California Fish and Game Code.

- CON-14a. Surveys. Require that vacant sites be surveyed for the presence or absence of relevant special status species prior to development approval.
- CON-14b. Minimization. Require that where impacts to special status species are deemed unavoidable, potential impacts to the identified species are minimized through design, construction, and operation of the project. Compensation measures could include on-site set asides or off-site acquisitions (e.g. conservation easements, deed restrictions, etc.) that would be required if project impacts result in direct loss or indirect impacts that cannot be mitigated in other ways. This might also involve species-specific enhancement restoration efforts for the mitigation lands.

Hillside Development

The project site is a hillside lot with a slope greater than 30 percent. The project will need to implement elements of the City of San Rafael Hillside Design Guidelines. The project proposal will require an amendment to the land use designation to a mixed-use designation to allow the mix of uses proposed. While the hillside design criteria are applicable only to residentially zoned lots, you will need to work with staff to determine the appropriateness of implementing hillside design criteria into the project. This would include minimizing grading, avoiding significant trees, and replacement of trees that will need to be removed to accommodate the proposed development. Keep in mind that sensitive design of this property will be greatly influenced by the environmental review process. The following hillside related General Plan Policies are applicable to the project:

- CD-6. Hillsides and Bay.
Protect the visual identity of the hillsides and Bay by controlling development within hillside areas, providing setbacks from the Bay, and providing public access along the Bay edge.
- CON-12. Preservation of Hillsides.
Encourage preservation of hillsides, ridgelines and other open areas that serve as habitat and erosion protection as well as visual backdrops to urban areas.
 - CON-12a. Hillside Design Guidelines. Continue to implement the Hillside Design Guidelines. The following is a link to the city's hillside design guidelines:

<https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2-hillside-design-guidelines.pdf>

- NH-157. Hillside Parcels, East of Los Gamos Drive.
These steep, highly visible parcels above the YMCA and office building have limited access. Development shall be clustered to retain community-wide visible hillside resources. Access to the northern parcel is very difficult and should be considered through the adjacent southern parcel.
- S-31. New Development in Fire Hazard Areas.
Design new development located on or adjacent to natural hillsides to minimize fire hazards to life and property.
- S-31a. New Development. Through the development review process, require appropriate mitigation measures such as fire preventive site design, landscaping and building materials, and the use of fire suppression techniques such as sprinklering.

Wildland Urban Interface

S-30b. Fire Protection Ordinance. Continue to implement Wildlife Urban Interface (WUI) standards within the Ordinance to reduce fire hazards in areas in the urban interface area.

S-31. New Development in Fire Hazard Areas.
Design new development located on or adjacent to natural hillsides to minimize fire hazards to life and property.

S-31a. New Development. Through the development review process, require appropriate mitigation measures such as fire preventive site design, landscaping and building materials, and the use of fire suppression techniques such as sprinklering.

S-32. Safety Review of Development Projects.
Require crime prevention and fire prevention techniques in new development, including adequate access for emergency vehicles.

Tree Protection

Plans will need to clearly demonstrate the number, species, and size of trees to be removed. The site contains large, mature coast live oak and valley oak. Tree removal will require replacement at a ratio of 3 trees for every tree removed. A Biological assessment will need to be evaluated those areas that are considered riparian. Development should be focused to avoid tree removal in riparian areas. The following General Plan Policies relate to tree preservation and replacement

- SU-7. New and Existing Trees
Plant new and retain existing trees to maximize energy conservation and carbon sequestration benefits.

- CON-8b. Tree Retention. Retain trees along creeks, where possible, for preservation of riparian habitat and to inhibit growth of algae.

Landscape Plan

Your formal submittal will need to include landscape plans that demonstrate tree replacement as noted above. In addition, the landscape plans will need to demonstrate compliance with the water conservation requirement of the Marin Municipal Water District as well as Vegetation Management limitation as required by the Fire Department. The following General Plan Policies apply to your project:

- NH-4b. Design Review Conditions of Approval. Through development review, require that design review approval include language whereby owners maintain landscaping in good condition
- CD-1c. Landscape Improvement. Recognize that landscaping is a critical design component. Encourage maximum use of available landscape area to create visual interest and foster sense of the natural environment in new and existing developments. Encourage the use of a variety of site appropriate plant materials.
- CD-21. Parking Lot Landscaping.
Provide parking lot landscaping to control heat build-up from pavement, reduce air pollution, provide shade cover for vehicles and soften the appearance of the parking lot. Emphasize the use of trees, and limit the height of shrub plantings so as to avoid creating security problems.
- CON-16. Landscape with Native Plant Species.
Encourage landscaping with native and compatible non-native plant species, especially drought-resistant species

In addition to the above General Plan Policies, the project will need to comply with Section 14.16.370 - Water-efficient landscape. For projects that are subject to the water-efficient landscape requirements, the city defers to MMWD to administer the provisions of this section.

APPLICABLE SITE AND USE REGULATIONS (CHAPTER 14.16)

The project will need to comply with applicable Site and Use Regulations established under Chapter 14.16, which include the following:

14.16.030 - Affordable Housing Requirement

The project proposes to meet the City's affordable housing requirement for new residential developments of 21 housing units or more. The percentage required by the SRMC is 20 percent of the total market rate units. The mix of affordability depends on whether the units are intended as ownership units or rental units as discussed below:

- Ownership Units. A minimum of fifty percent (50%) of all affordable housing units shall be affordable to low-income households, at an affordable sales

price. The remaining affordable housing units shall be affordable to moderate-income households at an affordable sales price.

- Rental Units. A minimum of fifty percent (50%) of all affordable housing units shall have rents that do not exceed the affordable monthly rent of very low-income households. The remaining affordable housing units shall have rents that do not exceed the affordable monthly rent of low-income households,

The applicant will be required to enter into a Below Market Rate (BMR) agreement. Please contact Stephanie Lovette at the Marin Housing Authority for an explanation of the BMR agreement process.

As a note, affordable housing units shall be dispersed throughout the development unless the City determines that the clustering of affordable units furthers affordable housing opportunities. The mix of unit size shall be similar to that of the development as a whole. The formal application shall demonstrate compliance with regard to location and mix of affordable units.

14.16.025 - Refuse Enclosure

The proposed project will be required to provide an area on-site suitable for collection of trash and other recyclable materials as required by Marin Sanitary Services (MSS). Plans shall demonstrate that refuse storage and pick-up will be possible without impacting driveway aisles, garage spaces, or guest parking spaces. Refuse storage areas shall not be placed within required landscape or parking areas required for the use or site. Additionally, the refuse area shall be designed to meet the minimum recommended dimensional standards of the local refuse collection agency as well as any requirements of other agencies responsible for reviewing such facility including, but not limited to building, fire, public works and the county health department. It is strongly suggested that you contact MSS to discuss refuse collection options and incorporate their requirements into the formal application.

14.16.140 - Fences and walls

Fences and retaining walls shall not conflict with sight distance requirements and shall be further limited as follows:

- Front and Street Side Yard - fences and retaining walls shall not exceed a height four feet (4') within the front and street side yard setback by the Design Review Board for development on a hillside parcel areas. Retaining walls exceeding a height of four feet (4') with a hillside property may be approved through Environmental and Design Review with recommendation by the design review board.
- Rear and Side Yard Fences – fences within the rear and side yard area shall not exceed a height of seven feet (7'). Fences up to eight feet (8') in height may be placed within the rear and side yard setback area with environmental and design review.

14.16.170 - Geotechnical Review

A geotechnical report assessing hazards such as potential seismic hazard, liquefaction, landslides, mudslides, erosion, sedimentation, and hazardous soil conditions shall be submitted upon formal application. The report shall be consistent with the geotechnical matrix included in Appendix F of the San Rafael General Plan and included as an attachment to this letter.

14.16.227 - Light and Glare; 14.18.170 – Lighting

Colors, materials, and lighting shall be designed to avoid creating undue offsite light and glare. Plans submitted for Conceptual Design Review appear to be consistent with this requirement. Upon formal application, a lighting plan with photometric study shall be provided and shall demonstrate compliance with applicable light and glare standards.

Lighting installed to illuminate parking areas shall be designed to reflect away from residential uses and motorists. Upon formal application the lighting plan as required by Section 14.16.227 and described above shall also meet the requirements of Section 14.18.170 of the SRMC.

Plans submitted for formal Environmental and Design Review shall demonstrate compliance with the following:

- Glossy finishes and reflective glass such as glazed or mirrored surfaces are discouraged.
- Lighting fixtures shall be approximately designed and/or shielded to conceal light sources from view off-site and avoid spillover onto adjacent properties.
- The foot-candle intensity of lighting should be the minimum amount necessary to provide a sense of security at building entryways, walkways and parking lots. In general terms, acceptable lighting levels would provide one (1) foot-candle ground level overlap at doorways, one-half (%) foot-candle overlap at walkways and parking lots, and fall below one (1) foot-candle at the property line.
- Lighting shall be reviewed for compatibility with on-site and off-site light sources. This shall include review of lighting intensity, overlap and type of illumination (e.g., high-pressure sodium, LED, etc.). This may include a review by the city to assure that lighting installed on private property would not cause conflicts with public street lighting.
- Maximum wattage of lamps shall be specified on the plans submitted for electrical permits.
- All new lighting shall be subject to a 90-day post installation inspection to allow for adjustment and assure compliance with this section.

14.16.243 - Mechanical Equipment Screening

Mechanical equipment placed on rooftops or in exterior yard areas will require screening from public view. Plans submitted for Conceptual Design Review do not indicate locations of mechanical screening. The formal application shall indicate

locations of mechanical equipment, if any, and shall propose screening which meets the criteria of the SRMC.

14.16.260 - Noise Standards

An acoustical study which identifies noise mitigation measures will be required upon formal application submittal.

14.16.295 - Sight Distance

Fencing, vegetation, and improvements shall not impede the visibility required for safe ingress and egress of vehicles or pedestrians within 15 feet of the curb return at any intersection or driveway. Improvements or vegetation located within the established vision triangle shall not exceed a height of three feet (3') above the street grade elevation. This requirement is reviewed by the Department of Public Works. Upon formal submittal the proposed project shall demonstrate compliance with this requirement.

14.16.370 - Water Efficient Landscaping

The project will be required to submit a landscape plan which demonstrates the use of water- efficient landscaping pursuant to the Marin Municipal Water District (MMWD) Water Conservation Ordinance. More information from MMWD is included as an attachment to this letter. Landscape plans also need to demonstrate compliance with sight distance, parking lot landscaping, and the minimum amount of landscaping.

Chapter 18 (Parking Standards): Total parking required on site would 371 spaces based on the following table:

Parking Requirement			
	Ratio	Number of units	Parking Required
Residential			
Studio	1/unit	25	25
1 bedroom	1.5/unit	37	56
2/3 bedroom	2/unit	123	246
Guest Parking	1/5 units	185	37
Retail	1/250	1671	7
			371

14.18.045 - Designated Parking for Clean Air Vehicles

Parking spaces serving new nonresidential buildings shall be designated for any combination of low-emitting, fuel-efficient, and carpool/van pool vehicles, as defined by Section 5.102 of the California Green Building Standards Code, California Code of Regulations, Part 11 of Title 24. Although EV station and pre-wiring is not required for the residential component of your project, it is strongly suggested that the project provide and pre-wiring for EV units.

14.18.090 – Bicycle Parking

On November 19, 2018, the City Council adopted amendments to the Zoning Ordinance which expands the bicycle parking requirement to multi-family developments. The number of short-term bicycle parking spaces required is equal to five percent (5%) of the required automobile spaces. Plans submitted for formal review will need to demonstrate how bicycle parking will be accommodated and shall comply with design standards pursuant to section 14.18.090(E) of the SRMC.

RESIDENTIAL DESIGN GUIDELINES

The project is subject to the City of San Rafael Residential and Non-Residential Design Guidelines. The entire text of the San Rafael Design Guidelines can be access on the City's web page using the following link:

<http://docs.cityofsanrafael.org/CommDev/Planning/documents/design-guidelines.pdf>

The following relevant design criteria should be considered as part of the formal application:

Building Design

- Building facades should be varied and articulated
- Design techniques should be used to break up volume of larger buildings
- Incorporate the use of stepped facades.
- Consider existing adjacent buildings and use transitional elements to minimize height.
- Screen rooftop equipment
- Minimize impact of roof vents
- Orient entrances to the street and provide a well-defined sense of entry from the street.
- Windows facing rear and side yard should consider privacy of adjacent neighbors
- Windows should be directed toward the street and public areas to provide surveillance
- Light fixtures should shielded to prevent glare

Site design

- Provide adequate vehicle maneuverability
- Use alternative materials to minimize large paved areas
- Front yard landscaping should contribute to the overall visual quality of the neighborhood
- Fences in front yard should include details that are consistent with the architecture of the residence

This information was provided to help you compile a formal application packet. While I have made every effort to give you a complete understanding of the policies

and regulations that may apply to your project and the issues you will need to address, review of a formal submittal packet may result in additional comments.

Next Steps

I recognize that this is a lengthy response! I have scheduled your project for a meeting with our Development Coordination Committee on Thursday, August 8th at 3:30 to allow an opportunity for follow-up questions and a general discussion. In the meantime, please take some time to review this document with your project team. Once we have had a chance to meet with the DCC team, we should discuss possible dates for Conceptual Design Review hearing(s).

If you have any questions or comments, please do not hesitate to contact me at 415-485-3092 or via email at alicia.giudice@cityofsanrafael.org.

Sincerely,



Ali Giudice
CITY OF SAN RAFAEL
Senior Planner

Attachments

1. City Council Resolution 8037.
2. San Rafael Fire Department
3. Building Division
4. Marin Municipal Water District

Copy Paul Jensen, Community Development Director
 Raffi Boloyan, Planning Manager
 Chris Hart
 Diane Henderson
 Riley Hurd
 Barry Miller

IV.B3. Multi-Family Residential Development



1. Applicable City Codes:

- *Title 14 of the San Rafael Municipal Code, City of San Rafael Zoning Ordinance, R-3 Zone, “Residential Districts.”*

Title 14 of the San Rafael Municipal Code, City of San Rafael Zoning Ordinance, “Environmental and Design Review.”

2. Preservation of Existing Natural Features

Hillside Residential Development plans should demonstrate an effort to preserve and protect significant natural features in the layout and design of streets, lots and grading patterns in multi-family residential development projects:

- The provisions of guidelines IV.A1., “Site Design Process,” IV.A2., “Preservation of Significant Trees” should be followed as general design criteria for the preservation of natural features in the planning of multi-family residential development projects.
- City Adopted Policies pertaining to or related to the preservation of natural features in hillside residential development:

— City of San Rafael, *General Plan 2000*:

- Land Use Element, Policies: LU-9, LU-10, LU-11 and LU-29.
- Parks and Recreation Element, Policies: R-2, R-4, R-12, R-14, R-28, R-31, R-35.
- Natural Environment Element, Policies: NE-1, NE-2, NE-3, NE-4, NE-5, NE-9, NE-11, NE-13, NE-17, NE-20.
- Health and Safety Element, Policies: S-1, S-2, S-3, S-4, S-5, S-6, S-7, S-19.
- Residential Neighborhood Element, Policies: RES-1, RES-5, RES-6, RES-7, SVS-7, NG-13, NG-14.

3. Hillside Grading and Drainage

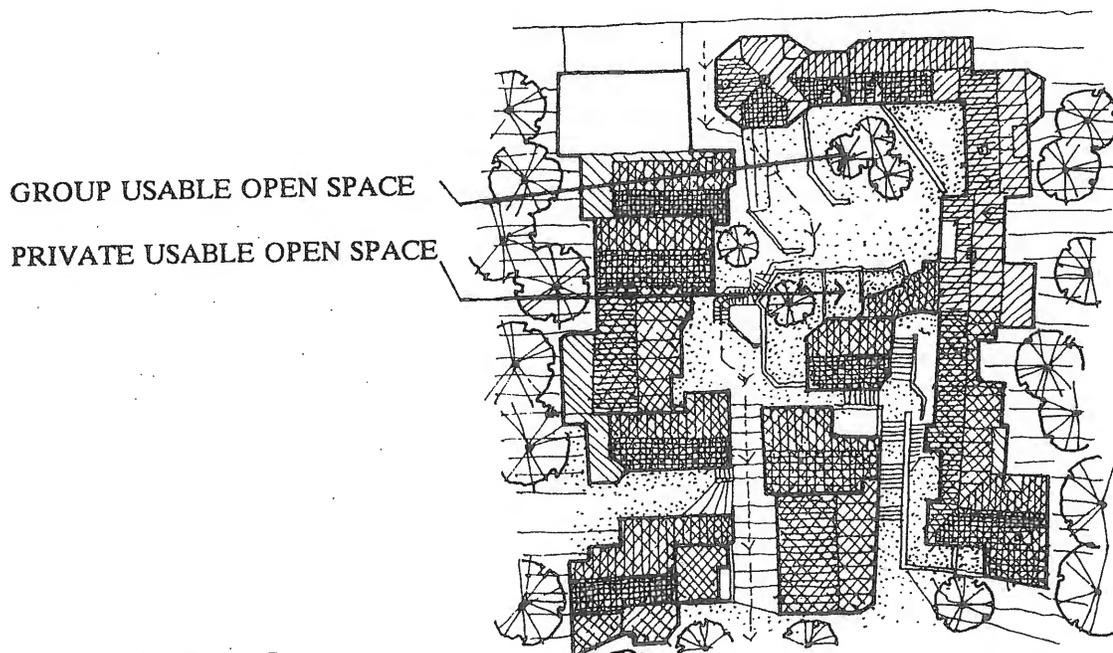
- The provisions of guideline IV.A3., “Hillside Grading and Drainage,” should be followed in the design of grading and drainage plans for multi-family residential development projects in *HR* and *HRR* areas as designated by the *General Plan 2000*.
 - City Ordinances pertaining to the design of grading and drainage plans for multi-family residential development projects in hillside areas designated as *HR* and *HRR* land uses in the *General Plan 2000*.
 - *Title 14 of the San Rafael Municipal Code*, City of San Rafael Zoning Ordinance, “Environmental and Design Review.”
 - City Review procedures pertaining to the design of grading and drainage plans for multi-family residential development projects in hillside areas with slopes of 25% or greater:
 - San Rafael Department of Public Works, Grading Plan Review.
 - City of San Rafael, Geotechnical Review Matrix Process for the *San Rafael General Plan 2000*.
 - City of San Rafael Standards pertaining to the design of grading and drainage plans for multi-family residential development projects:
 - City of San Rafael, Department of Public Works, Standard and Supplementary Conditions for Grading Permits.

4. **Site Design Principles for Multi-Family Residential Areas in Hillside Areas with slopes of 25% or greater.**

- Provisions of guideline IV.A6., "Reduction of Building Bulk on Hillsides," guideline IV.A7., "Architectural Character," guideline IV.A9., "Site Lighting" should be followed in the design of cluster residential development in hillside areas.

Other principles for the site design of multi-family residential development in hillside areas are:

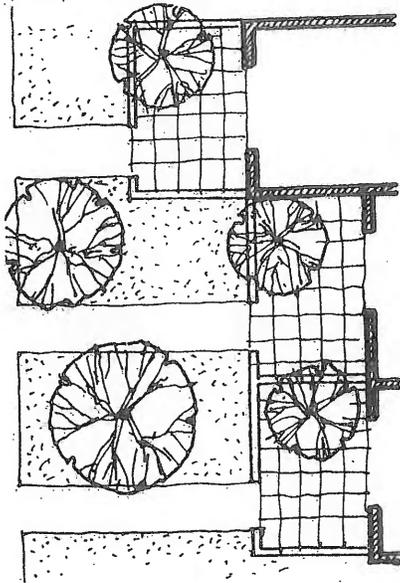
- Sloping sites offer opportunities to create and emphasize characteristics that are unique. These include emphasis on outdoor decks, roof gardens, terraces, roof forms, bay windows to maximize views from inside, clusters of carefully placed vegetation, framing of distant views with vegetation and building elements, pergolas, lookouts for viewing, sculptured stairs and walkways.
- Ideally there should be a 15 foot planted yard setback along the front and a 10 foot planted setback along side property lines, or as established by the Zoning Ordinance. The setback area should be fully landscaped, interrupted only by pedestrian areas. To promote the protection of significant natural features, allow front and side setback requirements to be flexible, with the discretion of Environmental Design Review.



- **Group Usable Open Space**
Group Usable Open Space is space for common use by the occupants of a development, normally including playgrounds, recreation courts, patios, and landscaped areas. Parking, driveways and loading areas are not considered Group Usable Open Space.

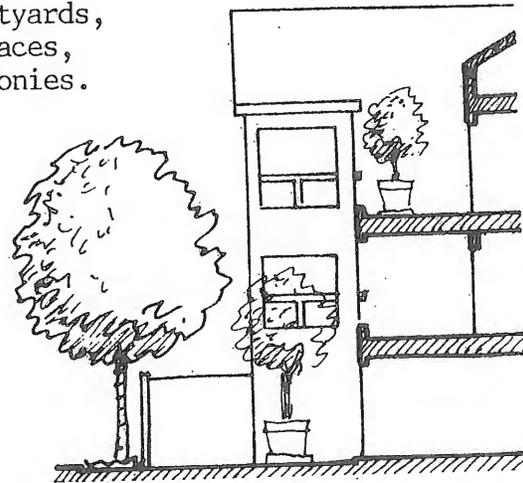
Provide all multi-family projects with Group Usable Open space for each dwelling unit consistent with the City of San Rafael regulations for multi-family residential development.

Provide at least one designated children's play area of at least 400 square feet for the first 25 dwelling units. This guideline does not apply to senior citizen residential projects. Additional requirements for usable outdoor areas are established by the Zoning Ordinance.



Private Usable Open Space

Courtyards,
Terraces,
Balconies.



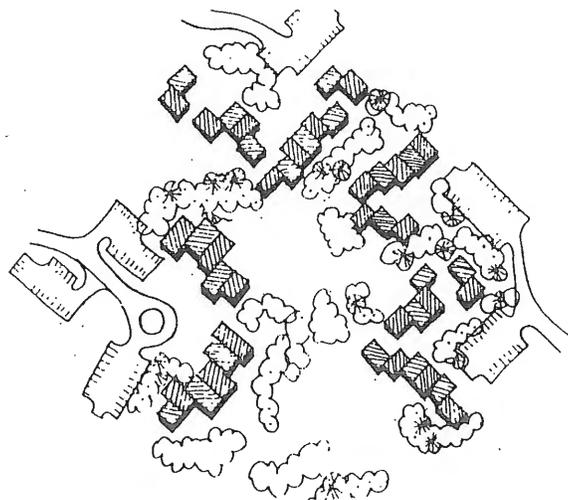
— Private Usable Open Space

All multi-family projects are encouraged to provide Private Usable Open Space for each dwelling unit consistent with the City of San Rafael regulations for multi-family residential development.

The City of San Rafael regulations governing multi-family residential open spaces should apply with the following additional recommendations:

- Private open spaces on the ground should be a minimum of 12 feet in each plan dimension, or the minimum established by the Zoning Ordinance, and should be screened from public view by plantings, privacy fences, and other similar methods.
 - Decks used for upper floor private space should have a minimum dimension of 8 feet, or the minimum established by the Zoning Ordinance.
 - Use terracing to achieve level spaces when providing open space on steep slopes.
 - Locate private outdoor spaces to receive solar gain in the winter months.
- Avoid large expanses of flat areas such as parking lots that create an incongruous element in the slope.

- Site buildings with units having different floor elevations to achieve height variation.
- Buildings located near hillside rims have higher visibility. these buildings should be sited in a staggered arrangement and screened with planting to minimize a “wall” effect.
- Avoid building facades that are designed with a ground level wall of repetitive garage doors.
- Retain existing vegetation.
- Avoid long continuous building masses that create a “wall” effect and inhibit views for sloping sites.
- Groups of buildings should be designed with visible differences. This may be achieved through materials, colors, forms and facade variation.
- Facades should be articulated to produce shadows through wall setbacks, overhangs, projecting windows, recessed openings, decks, and porches.
- Rooflines should avoid extended horizontal lines. Pitched, gabled and hipped roofs are more appropriate for hillside sites.
- The building facades and rooflines should, in contribution, provide a mixture of vertical and horizontal elements, but with more emphasis on verticality in cluster design.
- Stagger alignments of units both horizontally and vertically to create unit identity, privacy at entry, and in private outdoor space and to shape common open space.



Buildings with common open spaces and integral existing tree groupings.

- Separate buildings with common open spaces, integrate existing or provide new tree groupings in these spaces.

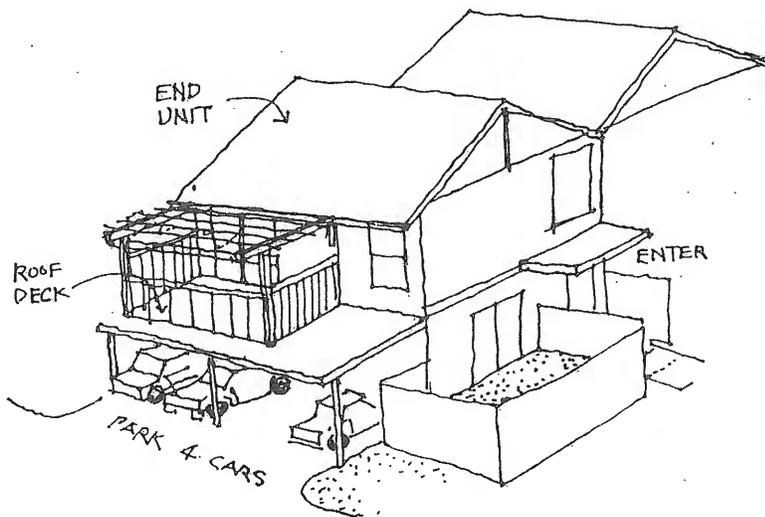
5. Parking Design for Multi-Family Residential Development on Hillside Sites.

- Applicable City Codes:

- Title 14 of the San Rafael Municipal Code, City of San Rafael Zoning Ordinance, "Parking Standards."

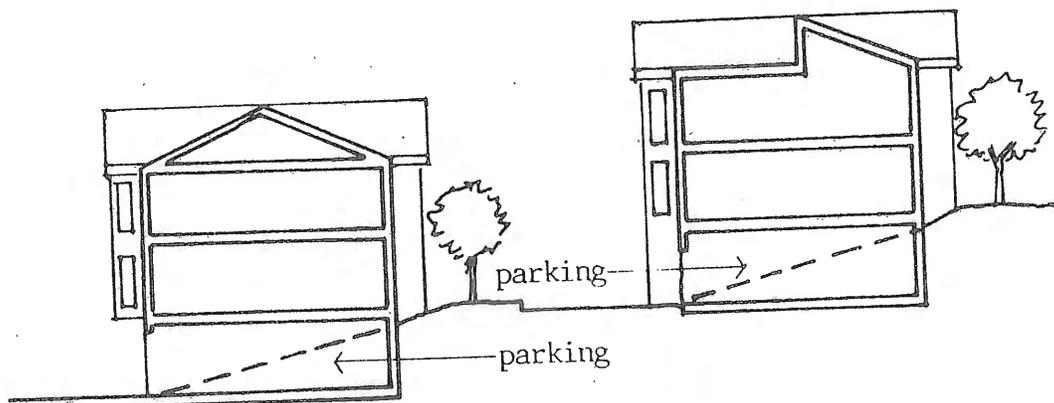
- Covered and "Tuck-under" Parking.

- Covered parking areas, by means of garages, carports, and trellised canopies, are strongly encouraged.



Covered Parking

- Tuck-under parking, on sloping sites at half or full level below ground, is encouraged.



TUCK UNDER PARKING

- **Surface Parking Areas**

- For all surface parking areas, an internal area equal to a minimum of 10% of the total parking area should be planted with a combination of trees and shrubs. Tree spacing should be such that every designated parking space is within 30 feet of the trunk of a tree. Turf areas are discouraged. See Appendix B. "Plant selection Guide."

6. Planting Design for Multi-family Residential Development Projects.

- The provisions of guideline IV.A8., "Planting Design for Hillside," should be followed in the design of landscape plans for multi-family residential development projects in hillside areas that have the *HR* and *HRR* Land Use designations in the *General Plan 2000* or are located on properties with slopes of 25% or greater.
- 7. The provisions of Section III, "Hillside Residential Development Standards," which regulate building height and bulk, apply to multi-family residential development.**

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**TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002**

Type equation here.

LAND USE ELEMENT	
<p>LU-2. Development Timing. For health, safety and general welfare reasons, new development should only occur when adequate infrastructure is available consistent with the following findings:</p> <ol style="list-style-type: none"> Project-related traffic will not cause the level of service established in the Circulation Element to be exceeded; Any circulation improvements needed to maintain the level of service standard established in the Circulation Element have been programmed and funding has been committed; Environmental review of needed circulation improvement projects has been completed; The time frame for completion of the needed circulation improvements will not cause the level of service in the Circulation Element to be exceeded, or the findings set forth in Policy C-5 have been made; and Sewer, water, and other infrastructure improvements will be available to serve new development by the time the development is constructed. <p>See also C-5 (Traffic Level of Service Standards).</p>	<p>The applicant will need to submit a Traffic Impact Study that includes VMT data as part of an EIR. Roadway improvements are implemented through the Capital Improvements Program, and are typically funded through a variety of sources, including Traffic Mitigation Fees. Environmental review is required. The project will be required to contribute to the following roadway improvements:</p> <p>Exhibit 21 Smith Ranch Road/Lucas Valley Road</p> <ul style="list-style-type: none"> Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities. Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes. <p>Lucas Valley/Los Gamos</p> <ul style="list-style-type: none"> Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities. Signalize intersection and coordinate with adjacent intersections.
<p>LU-8. Density of Residential Development. Residential densities are shown in Exhibit 11, Land Use Categories. Maximum densities are not guaranteed but minimum densities are generally required. Density of residential development on any site shall respond to the following factors: site resources and constraints,</p>	<p>Potentially Inconsistent unless amendments are approved by the Planning Commission The project site has a General Plan land use designation of Hillside Residential Resource, which allows a density range of 0.1-0.5 units per acre. The requested density of 17 units per acre and the inclusion of retail space as part of project will need a General Plan Amendment to allow a density range of 1.5-32 units per acre while allowing retail uses.</p>

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<p>potentially hazardous conditions, traffic and access, adequacy of infrastructure, City design policies and development patterns and prevailing densities of adjacent developed areas.</p> <p>When development is clustered to avoid sensitive areas of a site, density provided to the entire site may be transferred to the remaining portion of the site, providing all factors listed above can be met.</p> <p>Transfer of density among properties shall only be permitted when unique or special circumstances (e.g., preservation of wetlands or historic buildings) are found to exist which would cause significant environmental impacts if the transfer were not allowed.</p> <p>LU-8a. Residential Zoning. Implement Land Use Element densities by setting appropriate maximum allowed densities in the zoning ordinance.</p>	<p>In addition, a Zoning Map Amendment will be required to allow development of the property with the densities proposed. A large portion of the site is currently zoned PD-H. A request for a rezoning of the property will need to include a PD component (see General Plan Policy LU10). The General Plan Amendment and Rezone will need to demonstrate compliance with other applicable General Plan policies. Especially those policies intended to protect sensitive areas, natural habitats and protected trees.</p>
<p>LU-9. Intensity of Nonresidential Development. Commercial and industrial areas have been assigned floor area ratios (FARs) to identify appropriate intensities (see Exhibits 4, 5 and 6). Maximum allowable FARs are not guaranteed, particularly in environmentally sensitive areas. Intensity of commercial and industrial development on any site shall respond to the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.</p> <p>a. Where the existing building is larger than the FAR limit and no intensification or change of use is proposed, the property may be redeveloped at the same size as the existing building if parking</p>	<p>General Plan Exhibits 4-6 do not include FAR limits for this site. Part of the project proposal includes retail uses. A General Plan Amendment will include Amendments to Exhibits 4-6 to identify maximum FARs for this site. These FARs will need to be reflected in the list of development standards that would be established by the PD zoning.</p>

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- and design requirements in effect at the time of the new application can be met.
- b. FAR transfers between or among sites shall not be permitted except where the City Council finds the following:
- 1) The development of the beneficiary parcel is consistent with the General Plan 2020, except that FARs or maximum densities may be exceeded, and
 - 2) The proposed development will comply with all applicable zoning and design parameters and criteria as well as traffic requirements; and one or both of the following:
 - i. Unique or special circumstances are found to exist (e.g., preservation of wetlands or historic buildings) that would cause significant environmental impacts if the transfer is not allowed, and/or
 - ii. A significant public benefit will be provided, such as securing a new public facility site (e.g. park, school, library, fire station, police station).
- c. Through Planned Development rezoning, consider allowing a higher floor area ratio at the shopping center sites located at the crossroads of Andersen Drive, Highway 101, and Francisco Blvd. West where it would facilitate redevelopment with improved parking, access, landscaping and building design.

LU-9a. Nonresidential Zoning. Implement nonresidential levels of development and FAR transfer policies through

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<p>allowed floor area ratios in zoning districts.</p> <p>See NH-104a (Development Review Process).</p> <p>LU-10. Planned Development Zoning. Require Planned Development zoning for development on a lot larger than five acres in size, except for the construction of a single-family residence.</p>	<p>Because this is a 10.92-acres site, the project will require a Zoning Amendment to a PD zoning. Specific development standards and allowable uses are typically established as part of the PD zoning during the development review process. However, maximum heights and floor area ratios are outlined in the General Plan as Exhibit 5-floor area ratios and Exhibit 8- heights. Staff typically incorporates development standards that are in line with the type of development.</p>
<p>LU-12. Building Heights. Citywide height limits in San Rafael are described in Exhibits 7 and 8. For Downtown height limits see Exhibit 9:</p> <ul style="list-style-type: none"> a. Height of buildings existing or approved as of January 1, 1987 shall be considered conforming to zoning standards. b. Hotels have a 54-foot height limit, except where a taller height is shown on Exhibit 9 (Downtown Building Height Limits). c. Height limits may be exceeded through granting of a zoning exception or variance, or through a height bonus as described in LU-13 (Height Bonuses). 	<p>The proposed project consist of five (5) 3-story buildings that would reach a height of just over 50 feet. The General Plan Exhibit 8 identifies a maximum height of 36 feet for this property. If the Planning Commission is inclined to support the requested amendments to the GP Land Use Map and Zoning Map, the applicant will either need to amend Exhibit 8 to allow the proposed height or request a concession from the required height limit. The applicant will be required the applicant to demonstrate to the city council that the requested concession or incentive results in identifiable, financially sufficient, and actual cost reductions to the project. In the past the City has evaluated this type of height concession through evaluation of a financial pro forma that demonstrates that the number of units and proposed height are needed to make the project economically feasible.</p>
<p>See LU-2a (Development Review).</p> <p>LU-13. Height Bonuses. A height bonus may be granted with a use permit for a development that provides one or more of the amenities listed in Exhibit 10, provided the building's design is consistent with Community Design policies and design guidelines. No more than one height bonus may be granted for a project.</p>	<p>N/A</p>
<p>See LU-2a. (Development Review).</p> <p>LU-23. Land Use Map and Categories. Land use categories are generalized groupings of land uses and titles that define a predominant land use type (See</p>	<p>See Land Use Policy LU -8 above.</p>

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<p>Exhibit 11). All proposed projects must meet density and FAR standards (See Exhibits 4, 5 and 6) for that type of use, and other applicable development standards. Some listed uses are conditional uses in the zoning ordinance and may be allowed only in limited areas or under limited circumstances. Maintain a Land Use Map that illustrates the distribution and location of land uses as envisioned by General Plan policies. (See Exhibit 11).</p> <p>LU-23a. Zoning Ordinance Amendments. Revise the zoning ordinance, including the zoning map, to implement General Plan land use designations, densities, intensities, and policies, and to meet requirements of State law and court decisions.</p>	
<p>HOUSING ELEMENT</p>	<p>Affordable Housing Requirement Pursuant to Section 14.16.030 (Affordable Housing Requirements) of the Zoning Ordinance, projects proposing 21 or more housing units are required to provide 20% of the proposed units as affordable housing units. The applicant proposes 180 rental units, which means the project would have to dedicate 36 units for affordable housing. Because the project is a rental housing project the applicant would have to dedicate a minimum of fifty percent (50%) of the required affordable housing units to a maximum monthly rent of very low-income households. The remaining affordable housing units shall have rents that do not exceed the affordable monthly rent of low-income households. The applicant will need to demonstrate that how they will comply with this requirement and demonstrate that the affordable units are dispersed throughout the development and reflect the same quality in construction as the market rate units.</p>
<p>H-1. Housing Distribution. Promote the distribution of new and affordable housing of quality construction throughout the city to meet local housing needs.</p>	

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<p>H-2. Design That Fits into the Neighborhood Context. Recognize that construction of new housing and improvements on existing properties can add to the appearance and value of the neighborhood if they fit into the established character of the area. Design new housing, remodels, and additions to be compatible to the surrounding neighborhood. Incorporate transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. <u>Respect existing landforms and minimize effects on adjacent properties.</u></p>	<p>The project will need to implement elements of the City of San Rafael Hillside Design Guidelines and Residential and non-Residential Design Guidelines. In addition, the applicant will need to demonstrate that the proposed development will minimize grading, avoid significant trees, and include replacement of trees for those trees that will need to be removed to accommodate the proposed development. The applicant will also need to address General Plan Policy NH-157. Hillside Parcels, [West] of Los Gamos Drive which states: “These steep, highly visible parcels above the YMCA and office building have limited access. Development shall be clustered to retain community-wide visible hillside resources. Access to the northern parcel is very difficult and should be considered through the adjacent southern parcel.”</p>
<p>H-3a. Neighborhood Meetings. Require neighborhood meetings, as provided for by the City Council resolution for Neighborhood Meeting Procedures, for larger housing development proposals and those that have potential to change neighborhood character. In larger projects, the City requests that developers participate in formal meetings with the community. The City facilitates outreach by helping applicants find information on the appropriate neighborhood groups to contact. City staff attends meetings as a staff resource and conducts noticing of meetings.</p>	<p>The applicant will need schedule neighborhood meetings as part of the formal application process.</p>
<p>H-9. Special Needs. Encourage a mix of housing unit types throughout San Rafael, including very low- and low-income housing for families with children, single parents, students, young families, lower income seniors, homeless and the disabled. Accessible units shall be provided in multi-family developments, consistent with State and Federal law.</p> <p>H-9c. Housing Opportunities for Persons Living with Disabilities: The Golden Gate Regional Center (GGRC) provides services and support for adults and children with</p>	<p>Policy H-9-Special Needs calls for a mix of housing types at varying income levels to serve a diverse population including housing for single parents, students and young families. The City is obligated to provide its fair share of projected future Regional Housing Needs (RHNA). The City’s fair share of housing is 1,007 units for the 2015-2023 RHNA Cycle. The applicant will need to provide information as part of the formal application on how the project contributes to the affordable housing requirement and demonstrate compliance with accessibility requirements and affordable housing requirements.</p>

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<p>developmental disabilities, including over 400 San Rafael residents. The GGRC reports that 60 percent of their adult clients with developmental disabilities live with their parents, and as these parents age and become frailer their adult disabled children will require alternative housing options. The City will coordinate with the GGRC to implement an outreach program informing San Rafael families of housing and services available for persons with developmental disabilities, including making information available on the City's website.</p> <p>H-9d. Housing for Extremely Low Income Households. To meet the needs of extremely low income households, prioritize some housing fees for the development of housing affordable to extremely low-income households, to encourage the development of programs to assist age-in-place seniors, to increase the amount of senior housing, to increase the production of second units, and to facilitate the construction of multifamily and supportive housing.</p>	
<p>H-10. Innovative Housing Approaches. Provide opportunities and facilitate innovative housing approaches in financing, design and construction of units to increase the availability of low- and moderate-income housing and especially for housing that meets the city's housing needs. Examples include:</p> <ul style="list-style-type: none"> a. Limited Equity Cooperatives. Encourage limited equity residential cooperatives and other non-profit enterprises such as self-help projects designed to provide affordable housing. b. Manufactured Housing (Modular, Mobile homes). Allow, consistent with state law, creative, quality manufactured housing as a means for providing affordable housing. c. Single Room Occupancy (SRO) Units. <p>Encourage construction of new SRO units and</p>	<p>N/A</p>

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<p>protection of the existing SRO unit supply. d. Live/Work Housing. This type of housing is intended for a resident and their business, typically on different floors of the same unit, and well suited to San Rafael's downtown.</p>	
<p>H-13. Senior Housing. Encourage housing that meets the needs of San Rafael's older population, particularly affordable units and affordable care facilities that foster aging within the community. Support development that provides housing options so that seniors can find suitable housing to rent or purchase.</p> <p>H-13a. Assisted Living. Evaluate current zoning regulations for new assisted living housing, and assess options to regulate as a residential, rather than a commercial use. Evaluate establishing inclusionary housing requirements for assisted living.</p> <p>H-13b. "Age-in-Place" Assistance. Continue to provide assistance to older residents who want to remain independent and in their homes for as long as possible, such as the Police Department's "Are You OK?" program, the Fire Department's "Safety Check" program, Code Enforcement's continuing cooperation with the Marin County Social Services, and Community Services social activities offered through the Community Centers. See also H-11b (Junior Second Units) and H-16a (New Second Units)</p>	<p>The project is not a senior housing development.</p>
<p>H-14a. Residential and Mixed Use Sites Inventory. Encourage residential development in areas appropriate and feasible for new housing. These areas are identified in Appendix B, Housing Element Background, Summary of Potential Housing Sites (available for view on the City's</p>	<p>See Policy H-9 above</p>

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<p>website.</p> <p>H-17a. State Density Bonus Law. Under Government Code section 65915-65918, for housing projects of at least five units cities must grant density bonuses ranging from 5% to 35% (depending on the affordability provided by the housing project) when requested by the project sponsor, and provide up to three incentives or concessions unless specific findings can be made (Zoning Code Section 14.16.030).</p>	<p>N/A</p>
<p>H-18. Inclusionary Housing Requirements. The City of San Rafael first adopted inclusionary requirements in the 1980's. The City requires residential projects to provide a percentage of affordable units on site and/or pay in-lieu of fees for the development of affordable units in another location. The City's program requires the units remain affordable for the longest feasible time, or at least 55 years. The City's primary intent is the construction of units on-site. The units should be of a similar mix and type to that of the development as a whole, and dispersed throughout the development. If this is not practical or not permitted by law, the City will consider other alternatives of equal value, such as in-lieu fees, construction of units off-site, donation of a portion of the property for future non-profit housing development, etc. Allow for flexibility in providing affordable units as long as the intent of this policy is met. Specific requirements are:</p> <p>Rental Units. Provide, consistent with State law, a minimum of 50% of the BMR units affordable to very low-income households at below 50% of median income, with the remainder affordable to low income households at 50-80% of median income.</p>	<p>See Policy H-1 above</p>

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<p>Sale/Ownership Units. Provide a minimum of 50% of the BMR units affordable to low income households at 50-80% of median income, with the remainder affordable to moderate income households at 80-120% of median income.</p> <p>Calculation of In-lieu Fee. Continue to provide a calculation for in-lieu fees for affordable housing. For fractions of affordable units, if 0.5 or more of a unit, the developer shall construct the next higher whole number of affordable units, and if less than 0.5 of a unit, the developer shall provide an in-lieu fee.</p>	
<p>H-19. Energy Conservation and Sustainability The City of San Rafael promotes resource conservation and energy efficiency through the Sustainability Element of the General Plan. In implementing the policies and programs of the Sustainability Element, the City will also achieve its objectives for greater sustainability in residential projects.</p> <p>H-19a. Sustainability Policies and Programs. Refer to the Sustainability Element in the San Rafael General Plan to guide housing development and renovation. SU-4 Renewable Energy lays out programs to increase the supply of renewable energy. SU-5 Reduce Use of Non-Renewable Resources promotes efficiency in resource consumption.</p> <p>Summary of Quantified Objectives The following table summarizes the City's quantified objectives for the 2015-2023 Housing Element planning period. The objectives include the City's new construction objectives to meet its Regional Housing Needs Allocation (RHNA); rehabilitation objectives to reflect Marin</p>	<p>Project will require Greenhouse Gas Assessment and TAC Health Risk Assessment as part of the environmental review for the property.</p>

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<p>Housing's Rehabilitation Loan Program; and conservation objectives to reflect preservation of existing rent-restricted affordable housing at risk of conversion.</p>	
<p>NEIGHBORHOODS ELEMENT</p>	
<p>NH-2. New Development in Residential Neighborhoods. Preserve, enhance and maintain the residential character of neighborhoods to make them desirable places to live. New development should:</p> <ul style="list-style-type: none"> ● Enhance neighborhood image and quality of life, ● Incorporate sensitive transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy, ● Preserve historic and architecturally significant structures, ● Respect existing landforms and natural features, ● Maintain or enhance infrastructure service levels, and ● Provide adequate parking. 	<p>TBD</p>
<p>NH-3. Housing Mix. Encourage a housing mix with a broad range of affordability, character, and sizes. In areas with a predominance of rental housing, encourage ownership units to increase the variety of housing types.</p>	
<p>NH-4b. Design Review Conditions of Approval. Through development review, require that design review approval include language whereby owners maintain landscaping in good condition.</p>	<p>TDB at time of formal application</p>
<p>NH-5. Safe Streets. Provide neighborhood streets that are safe, pleasant, and attractive to walk, cycle and drive along.</p>	<p>TBD</p>

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<p>See C-21a (Traffic Calming Program), I-8a (Street Tree Program) and I-8b (Street Trees for New Development).</p> <p>NH-6. Bicycle- and Pedestrian-Friendly Streets. Create bicycle- and pedestrian-friendly residential streets with large street trees, sidewalks and other appropriate amenities.</p> <p>NH-6a. Narrow Streets. In new streets, consider modifying street standards to allow narrower streets that promote bicycle and pedestrian activity and safety, while still providing for emergency and service access. Public streets must be designed to Caltrans and American Association of State Highway and Transportation Officials standards.</p> <p>See also C-26a (Implementation), C-27a (Implementation), I-6c (Sidewalk Repair) and C-4b (Street Design Criteria to Support Alternative Modes).</p> <p>NH-11. Needed Neighborhood Serving Uses. Give priority to "needed neighborhood serving uses": Examples of needed neighborhood serving uses are: supermarkets; craft stores; cafes; restaurants; drug stores; neighborhood shopping centers which include uses such as dry cleaners, delis and markets, video stores, etc.; health and medical facilities and services; as well as improved public uses and services such as parks, schools, child care, and police services. Other similar uses that serve primarily neighborhood residents and/or employees and receive broad neighborhood support may also qualify.</p> <p>See LU-15 (Convenience Shopping).</p> <p>NH-157. Hillside Parcels, East of Los Gamos Drive. These steep, highly visible parcels above the YMCA and office building have limited access. Development shall be clustered to retain community-wide visible hillside resources. Access to the northern parcel is very difficult</p>	<p>TBD</p>	<p>The project includes a small retail store (1,671 square feet) and a community building (1,368 square feet). The applicant will need to include these two uses as part of the Planned Development zoning in terms of defining development standards for these uses.</p>	<p>See Policy H-2 above</p>
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<p>and should be considered through the adjacent southern parcel.</p> <p>See LU-2a (Development Review).</p>	
<p>COMMUNITY DESIGN ELEMENT</p> <p>CD-1. City Image. Reinforce the City's positive and distinctive image by recognizing the natural features of the City, protecting historic resources, and by strengthening the positive qualities of the City's focal points, gateways, corridors and neighborhoods.</p> <p>CD-1c. Landscape Improvement. Recognize that landscaping is a critical design component. <u>Encourage maximum use of available landscape area to create visual interest and foster sense of the natural environment in new and existing developments.</u> Encourage the use of a variety of site appropriate plant materials.</p> <p>CD-9a. Corridor Design Guidelines. Develop specific design guidelines for each corridor that address building massing, articulation of building facades, detailing, lighting, landscaping, street trees and other desired infrastructure and characteristics. Include appropriate zoning code provisions.</p> <p>CD-5. Views. Respect and enhance to the greatest extent possible, views of the Bay and its islands, Bay wetlands, St. Raphael's church bell tower, Canalfront, marinas, Mt. Tamalpais, Marin Civic Center and hills and ridgelines from public streets, parks and publicly accessible pathways.</p>	<p>The project site has a General Plan Land Use Designation of Hillside Resource Residential due to lot slope, proximity to a highly visible ridge line. The request for formal application will need to identify how the project will protect natural features, incorporate native landscaping the fosters a sense of the natural setting and incorporates a design approach that optimizes articulation in building design. The project will require Design Review Board recommendation of the design approach.</p>
<p>CD-6. Hillside and Bay. Protect the visual identity of the hillside and Bay by</p>	<p>A Biological Assessment will be required to assess habitat value of the property and of the existing drainageways. Project will require evaluation of drainage ways to determine whether wetlands exist on the</p>

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<p>controlling development within hillside areas, providing setbacks from the Bay, and providing public access along the Bay edge.</p> <p>CD-6a. Hillside Design Guidelines. Continue to implement hillside design guidelines through the design review process. Update the guidelines as needed.</p> <p>CD-6b. Wetland Setbacks. Continue to implement the wetland setbacks addressed in Policy CON-4 and in the zoning ordinance.</p>	<p>property. The project will need to comply with Section 14.16.080 which identifies drainage setbacks based on the type of drainage and sensitivity of the site . The applicant will need to demonstrate compliance with Hillside Design Guidelines based on input from the Planning Commission and Design Review Board.</p>
<p>CD-6c. Public Access Opportunities. Continue to evaluate public access opportunities through the development review process.</p>	<p>The property is located adjacent to property currently designate as open space. Future public access is planned for the open space area. The property is identified as a potential open space site in Appendix I of the General Plan. The project proposal will need to identify how the project will achieve consistency with the General Plan with respect to open space and public access to open space.</p>
<p>CD-10. Nonresidential Design Guidelines. Recognize, preserve and enhance the design elements that contribute to the economic vitality of commercial areas. Develop design guidelines to ensure that new nonresidential and mixed-use development fits within and improves the immediate neighborhood and the community as a whole.</p> <p>CD-10a. Visual Compatibility. Ensure that new structures are visually compatible with the neighborhood and encourage neighborhood gathering places. Guidelines may address screening of service functions, materials and detailing, screening of roof equipment, lighting, landscaping, outdoor café seating and pedestrian amenities.</p> <p>CD-11. Multifamily Design Guidelines. Recognize, preserve and enhance the design elements that</p>	<p>Since this is a mixed-use project the project will need to demonstrate compliance with the Residential and Nonresidential Design Guidelines. The project site is highly visible from the freeway thus requiring an exceptional design approach. Landscape, lighting, and colors/materials details will need to be part of the formal application. As mentioned above the will require input from the Design Review Board.</p> <p>The project will need to comply with Section 14.16.370 - Water-efficient landscape. For projects that are subject to the water-efficient landscape requirements, the city defers to MMWD to administer the provisions of this section.</p>

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<p>ensure multifamily housing is visually and functionally compatible with other buildings in the neighborhood. Develop design guidelines to ensure that new development fits within and improves the character defining elements of neighborhoods.</p> <p>CD-18. Landscaping. Recognize the unique contribution provided by landscaping, and make it a significant component of all site design.</p>	
<p>CD-19. Lighting. Allow adequate site lighting for safety purposes while controlling excessive light spillover and glare.</p> <p>CD-19a. Site Lighting. Through the design review process, evaluate site lighting for safety and glare on proposed projects.</p> <p>CD-19b. Lighting Plan. Require new development and projects making significant parking lot improvements or proposing new lighting to prepare a lighting plan consistent with the Design Guidelines for review by City planning staff.</p>	<p>The applicant's formal application will need to address site and building lighting.</p>
<p>CD-14. Recreational Areas. In multifamily development, require private outdoor areas and on-site common spaces for low and medium densities. In high density and mixed-use development, private and/or common outdoor spaces are encouraged. Common spaces may include recreation facilities, gathering spaces, and site amenities such as picnicking and play areas.</p>	<p>The project will require a PD zoning designation. Development standards (including those related to recreation areas) for PD zoning are more flexible and will be determined as part of the formal review. However, the project should use the existing standards for multi-family development to the extent possible. The recreation areas required for multi-family residential ranges between 100-200 square feet.</p>
<p>CD-21. Parking Lot Landscaping. Provide parking lot landscaping to control heat build-up</p>	<p>See Policy CD10 – Policy CD18 above</p>

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<p>from pavement, reduce air pollution, provide shade cover for vehicles and soften the appearance of the parking lot. Emphasize the use of trees, and limit the height of shrub plantings so as to avoid creating security problems.</p> <p>CD-21a. Parking Lot Landscaping Requirements. Update parking lot landscape requirements to increase the screening of parking lots from the street and nearby properties. Requirements would address appropriate size and location of landscaping, necessary screening consistent with security considerations, tree protection measures, and appropriate percent of shade coverage required of parking lot trees. Include maintenance requirements in all approvals.</p> <p>CD-21b. Parking Lot Landscape Enforcement. Require that newly installed parking lot landscaping be maintained and replaced as needed. Assure that landscaping is thriving prior to expiration of the required 2-year maintenance bond.</p>	
<p>ECONOMIC VITALITY</p>	
<p>EV-12. Workforce Housing. Aggressively encourage creation and retention of workforce housing, both owner and renter-occupied especially for public safety and community service personnel.</p> <p>EV-12a. Benefits of Workforce Housing. Educate residents regarding the benefits to the community of workforce housing.</p> <p>EV-12b. Housing Opportunities for Local Public Service Workers. Aggressively support efforts to build</p>	<p>TBD See H-9 above</p>

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<p>and retain workforce housing opportunities for local public service workers such as, but not limited to, public safety employees and community service personnel.</p>	
<p>CIRCULATION ELEMENT</p>	
<p>C-1. Regional Transportation Planning. Actively coordinate with other jurisdictions, regional transportation planning agencies, and transit providers to expand and improve local and regional transportation choice. Work cooperatively to improve transit and paratransit services, achieve needed highway corridor improvements, and improve the regional bicycling network. As part of this effort, support implementation of Marin County's 25-Year Transportation Vision.</p>	<p>The applicant will be required to provide a traffic impact analysis that evaluates the projects Level of Service (LOS) impacts as well as impacts associated with Vehicle Miles Traveled (VMT). Trips from the project will be used to evaluate potential need for improvements at the project driveway to accommodate project-generated traffic. The need for turn lanes will be evaluated in terms of volume, adequacy of sight distance and safety considerations. In addition, the project may be required to contribute its fair share of improvements at the intersection of Los Gamos Drive and Lucas Valley Road. General Plan Policy C-6. Proposed Improvements requires that the project contribute to the following roadway improvements (listed in Exhibit 21):</p> <p>Smith Ranch Road/Lucas Valley Road Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities. Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes.</p> <p>Lucas Valley/Los Gamos Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities. Signalize intersection and coordinate with adjacent intersections.</p> <p>See above</p>
<p>C-4. Safe Roadway Design. Design of roadways should be safe and convenient for motor vehicles, transit, bicycles and pedestrians. Place highest priority on safety. In order to maximize safety and multimodal mobility, the City Council may determine that an intersection is exempt from the applicable intersection level of service standard where it is determined that a</p>	

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<p>circulation improvement is needed for public safety considerations, including bicycle and pedestrian safety, and/or transit use improvements.</p> <p>C-4a. Street Pattern and Traffic Flow. Support efforts by the City Traffic Engineer to configure or re-configure street patterns so as to improve traffic flow and turning movements in balance with safety considerations and the desire not to widen roads.</p> <p>C-4b. Street Design Criteria to Support Alternative Modes. Establish street design criteria to the extent permitted by State law to support alternative transportation modes to better meet user needs and minimize conflicts between competing modes.</p> <p>C-4c. Appropriate LOS Standards. At the time City Council approves a roadway improvement and safety exemption from the applicable LOS standard, the appropriate LOS will be established for the intersection.</p>									
<p>C-5. Traffic Level of Service Standards.</p> <p>A. Intersection LOS. In order to ensure an effective roadway network, maintain adequate traffic levels of service (LOS) consistent with standards for signalized intersections in the A.M. and P.M. peak hours as shown below, except as provided for under (B) Arterial LOS.</p> <p>Intersection Level of Service Standards, A.M. and P.M. Peak Hours</p> <table border="0"> <tr> <td style="text-align: center;"><u>Location</u></td> <td style="text-align: center;"><u>LOS</u></td> </tr> <tr> <td>Citywide, except as noted below</td> <td style="text-align: center;">(D)</td> </tr> <tr> <td>a) Downtown except as noted below</td> <td style="text-align: center;">(E)</td> </tr> <tr> <td> 1. Mission Ave. and Irwin</td> <td style="text-align: center;">(F)</td> </tr> </table>	<u>Location</u>	<u>LOS</u>	Citywide, except as noted below	(D)	a) Downtown except as noted below	(E)	1. Mission Ave. and Irwin	(F)	<p>See Policy C-1 above</p>
<u>Location</u>	<u>LOS</u>								
Citywide, except as noted below	(D)								
a) Downtown except as noted below	(E)								
1. Mission Ave. and Irwin	(F)								

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- b) Irwin Street and Grand Avenue between Second Street and Mission Avenue (E)
 - c) Third and Union Streets (E*)
 - d) Andersen and West Francisco (E)
 - e) Andersen and Bellam (E)
 - f) Freitas at Civic Cntr/Redwood Hwy (E)
 - g) Merrydale at Civic Center Drive (E)
 - h) Merrydale at Las Gallinas (E)
- *Maximum 70 seconds of delay during peak hours.

B. Arterial LOS. The City Traffic Engineer may apply arterial level of service analysis as the primary method of analysis for any proposed development project. The City Traffic Engineer will make this determination based on intersection spacing and other characteristics of the roadway system where conditions are better predicted by arterial analysis. Where arterial LOS analysis is warranted, a proposed development must be consistent with the following arterial LOS standards. If an intersection LOS is above or below the standard, the project shall be considered consistent with this policy if the arterial LOS is within the standard. The project will not be deemed consistent with this policy if the arterial LOS fails to meet the standard.

When arterial level of service is applied as the primary method of analysis for a proposed project, the project shall be deemed to be consistent with this policy if it is demonstrated that the arterial LOS standards described below are met regardless of the intersection LOS, or the project shall be deemed to be inconsistent with this policy if the arterial LOS standards are not met regardless of the intersection LOS.

**Arterial Level of Service Standards, A.M. and P.M.
Peak Hours**

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<p>Location Citywide, except as noted below a) Downtown except as noted below - Congestion Management Segments (Second, Third and Fourth Streets) (as established by the Marin County Congestion Management Agency b) Arterials operating at LOS E outside Downtown, and F (1)</p>	<p>LOS (D) (E) (D) (F)</p>
<p>For arterials operating at LOS E outside Downtown, and F as of the date of adoption of General Plan 2020, see Appendix C.</p>	
<p>C. Exemptions. Signalized intersections at Highway 101 and Interstate 580 onramps and offramps are exempt from LOS standards because delay at these locations is affected by regional traffic and not significantly impacted by local measures.</p>	
<p>D. Evaluation of Project Merits. In order to balance the City's objectives to provide affordable housing, maintain a vital economy and provide desired community services with the need to manage traffic congestion, projects that would exceed the level of service standards set forth above may be approved if the City Council finds that the benefits of the project to the community outweigh the resulting traffic impacts.</p>	
<p>C-5a. LOS Methodology. Use appropriate methodologies for calculating traffic Levels of Service, as determined by the City Traffic Engineer. Responsibility: Public Works Time Frame: Ongoing Funding: General Fund</p>	

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C-5b. Monitoring Traffic. To assure acceptable traffic operating standards over time, monitor traffic conditions throughout San Rafael on an ongoing basis. Based on such evaluation, the City Traffic Engineer shall identify traffic mitigations to reduce congestion and address safety concerns.

C-5c. Exception Review. When the City Council finds that a project provides significant community benefits yet would result in a deviation from the LOS standards, the City Council may approve such a project through adoption of findings, based on substantial evidence, that the specific economic, social, technological and/or other benefits of the project to the community substantially outweigh the project's impacts on circulation, and that all feasible mitigation measures have been required of the project.
Responsibility: Community Development
Timeframe: Ongoing
Funding: Fees

See also LU-2a (Development Review).

C-5.1. Vehicle Miles Traveled (VMT) Methodology for Environmental Review of Traffic Impact
Pursuant to Public Resources Code § 21099 and 21083 (provided under Senate Bill 743, effective January 2016,) an alternative method for measuring transportation impacts of projects will replace the Level of Service (LOS) methodology. For environmental review, the use of the vehicle miles traveled (VMT) metric will be applied in assessing development projects.

C-5.1a. Develop a VMT Model. Use VMT in the assessment of traffic impacts for the purposes of environmental review, provided that each project meets the

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<p>criteria for use of VMT measurements identified under the California Environmental Quality Act (CEQA) and that the City Traffic Engineer determines the appropriateness of using VMT for a project. Develop and adopt a VMT model. Incorporate the model into the General Plan Environmental Impact Report Implement VMT for CEQA review of projects</p>	
<p>C-6. Proposed Improvements. The proposed circulation improvements in Exhibit 21 have been identified as potentially needed to improve safety and relieve congestion in San Rafael over the next 20 years. Major Proposed Circulation Improvements include those improvements deemed necessary to maintain City LOS standards. Other recommended roadway improvements, include additional improvements that may become necessary in the long-term and are desirable to enhance San Rafael's circulation system, but are not necessary to maintain LOS standards. Specific improvements will be implemented as conditions require, and will be refined during the design phase. Recognize that other feasible design solutions may become available and be more effective in achieving the same goals as the improvements listed in Exhibit 19, and allow for their implementation, consistent with the most recent engineering standards. As conditions change, planned roadway improvements may be amended, through the annual General Plan Review. Roadway improvements are implemented through the Capital Improvements Program, and are typically funded through a variety of sources, including Traffic Mitigation Fees. Environmental review is required.</p> <p>C-6a. Update Proposed Circulation Improvements. On a regular basis, monitor and update the list of Proposed Circulation Improvements.</p>	<p>See Policy C-1 The project may be required to contribute its fair share of improvements at the intersection of Los Gamos Drive and Lucas Valley Road. General Plan Policy C-6. Proposed Improvements requires that the project contribute to the following roadway improvements (listed in Exhibit 21): Smith Ranch Road/Lucas Valley Road Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities. Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes. Lucas Valley/Los Gamos Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities. Signalize intersection and coordinate with adjacent intersections</p>

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<p><u>Exhibit 21</u> Smith Ranch Road/Lucas Valley Road Widen roadway to provide two westbound and two eastbound lanes between Redwood Highway and Los Gamos and provide pedestrian and bicycle facilities. Widen northbound 101 off ramp and southbound 101 off ramp for additional right and left turn lanes.</p> <p>Lucas Valley/Los Gamos Widen Lucas Valley Road to provide two through lanes for eastbound and westbound, and reconfigure Highway 101 ramps and provide pedestrian and bicycle facilities. Signalize intersection and coordinate with adjacent intersections.</p> <p>Las Gallinas Avenue (Merrydale to Del Presidio) Remove parking and widen street to provide four lanes (one southbound, two northbound and one two-way left turn).</p> <p>Freitas/Las Gallinas Upgrade the traffic signal system and operation. Improve intersection geometry, cover portions of drainage ditch and provide pedestrian and bicycle facilities.</p> <p>Freitas/Del Presidio Explore feasibility of double northbound right turn and southbound 101 on ramp widening</p> <p>Freitas/ Northbound 101 Ramps- Redwood- Civic Center widening and signalization Interim interchange improvement and signalization</p>	
<p>C-7. Circulation Improvements Funding. Take a strong advocacy role in securing funding for planned circulation improvements. Continue to seek</p>	<p>See C-1 above The project will need to contribute its fair share of traffic mitigations fees.</p>

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<p>comprehensive funding that includes Federal, State, and County funding, among other funding sources; Local Traffic Mitigation Fees; and Assessment Districts. The local development projects' share of responsibility to fund improvements is based on: (1) the generation of additional traffic that creates the need for the improvement; (2) the improvement's role in the overall traffic network; (3) the probability of securing funding from alternative sources; and (4) the timing of the improvement.</p> <p>C-7a. Traffic Mitigation Fees. Continue to implement and periodically update the City's Traffic Mitigation Program.</p> <p>C-7b. Circulation Improvements. Seek funding for and construct circulation improvements needed for safety, to improve circulation, or to maintain traffic level of service.</p> <p>See LU-2a (Development Review).</p>	
<p>C-8. Eliminating and Shifting Peak Hour Trips. Support efforts to limit traffic congestion through eliminating low occupancy auto trips or shifting peak hour trips to off-peak hours. Possible means include telecommuting, walking and bicycling, flexible work schedules, car and vanpooling and other Transportation Demand Management approaches.</p> <p>See Programs C-13a (School Transportation) C-11a (Car and Vanpooling), C-12a (Regional Support for TDM), C-12b (City Support for TDM) and C-12c (City TDM Program).</p>	<p>A traffic Study will be prepared for this project. Peak hour trips will be identified as part of the traffic study.</p>
<p>C-9. Access for Emergency Services. Provide safe routes for emergency vehicle access so that that emergency services can be delivered when Highway 101 or 580 are closed or congested with traffic.</p>	<p>TBD Emergency access will be evaluated as part of the formal application</p>

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<p>C-9a. Highway Closures. Develop, and update as necessary, an emergency contingency plan that addresses highway closure events.</p> <p>C-9b. Roadway Monitoring. Support local traffic monitoring and control approaches, such as closed-circuit cameras and high-tech traffic signal systems that can be used to relieve congestion around incident sites or support emergency vehicle access. See S-32a (Safe Buildings) and S-36a (Emergency Connectors).</p>	
<p>C-22. Attractive Roadway Design. Design roadway projects to be attractive and, where possible, to include trees, landscape buffer areas, public art, integration of public spaces and other visual enhancements. Emphasize tree planting and landscaping along all streets.</p>	<p>TBD at time of formal application</p>
<p>C-23. Connections Between Neighborhoods and with Adjoining Communities. Identify opportunities to improve pedestrian, bicycle and transit connections between San Rafael neighborhoods and between San Rafael and adjacent communities.</p> <p>C-23a. Better Signage. As opportunities arise, provide better signage, consistent with the Bicycle and Pedestrian Master Plan for bicycle, pedestrian and transit routes to identify pathways between neighborhoods and other communities.</p>	<p>TBD</p>
<p>C-24. Connections Between Neighborhoods and Activity Centers. Seek opportunities to increase connectivity between San Rafael neighborhoods and activity centers.</p>	<p>TBD</p>

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<p>C-26c. Bicycle Parking. Update Zoning Ordinance requirements for bicycle parking.</p>	<p>Short term and long term bicycle parking will be required pursuant to Section 14.18.090-Bicycle parking Number of Short-Term Spaces Required. 1. Commercial, office, industrial, and multi-family residential uses: five percent (5%) of the requirement for automobile parking spaces, with a minimum of one two-bike capacity rack. Note: this is the minimum required, however, your request involves a General Plan Amendment and a Rezone to a PD. Providing additional bicycle parking in the form of long term spaces may be required as part of the discretionary review.</p>
<p>C-28. Urban Trail Network. Encourage identification, renovation and maintenance of an urban trails network throughout San Rafael to encourage walking and appreciation of historical and new pathways.</p> <p>C-28a. Urban Trail Network Project. Prepare a plan to include a map and descriptions of existing and potential urban trails in San Rafael. Urban trails to be identified include, but are not limited to, historic neighborhood stairways and walkways, Downtown alleyways, park pathways, and creekside paths. The document should identify a network of connecting pathways that can be promoted for walking enjoyment, and means to preserve and maintain these paths.</p>	<p>TBD</p>
<p>C-29. Better Use of Parking Resources. Improve use of existing parking and create new parking opportunities through innovative programs, public/private partnerships and cooperation, and land use policies.</p> <p>See also H-15 (Infill Near Transit).</p>	<p>N/A</p>
<p>C-31. Residential Area Parking. Evaluate effective means to manage residential parking to minimize the impacts of excess demand.</p>	<p>TBD</p>

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<p>See NH-8a (Restore Parking Spaces), NH-8b (Additional On-Site Parking), NH-8c (Permit Parking) and NH-8d (Zoning Ordinance Review).</p>	
<p>PARKS AND RECREATION</p> <p>PR-1. Standards. Maintain, and where possible exceed, a recreation standard of three acres of park and recreation facilities per 1,000 residents.</p> <p>PR-1a. Recreation standard. Use the recreation standard when evaluating proposals for new parks. Consider the creation of neighborhood parks of less than three acres when it can be demonstrated that such a facility would satisfy an unmet neighborhood need, provide recreational value and be a sufficient size to support desired infrastructure.</p>	<p>The applicant will be required to provide onsite recreation area. total recreation will be determined as part of the formal application and will be incorporated in the development standards for the PD Zoning.</p>
<p>PR-2. Park Development Criteria. Use the following criteria as a guide to improving the park system:</p> <ul style="list-style-type: none"> a. Neighborhood parks should serve populations of at least 3,000 within a radius of one-half mile, and have a minimum size of three acres. b. Community parks should serve a population of 10,000 to 30,000 within a radius of three to five miles, and have a size of 20 acres or more. <p>PR-2a. Park Criteria. Use the park development criteria when evaluating proposals for new parks and park improvements.</p>	<p>TBD at time of formal application</p>
<p>PR-3. Neighborhood Recreational Needs. Serve all neighborhoods with neighborhood and/or</p>	<p>TBD</p>

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<p>community parks that meet the needs of the community. Priority areas should include Canal, Dominican, and Montecito neighborhoods.</p> <p>PR-3a. Neighborhood Recreational Needs. Develop individual park plans as opportunities become available, determining cost estimates and priorities.</p> <p>PR-3b. Parks and Recreation Commission Priorities. On a periodic basis, work with the Parks and Recreation Commission to recommend priorities for park improvements.</p>	
<p>PR-10. Onsite Recreation Facilities. Require onsite recreation facilities in new multifamily residential projects and encourage construction of onsite recreation facilities in existing multifamily residential projects, where appropriate.</p> <p>PR-10a. Onsite Recreation Facilities. Continue to implement zoning regulations to require appropriate recreational facilities.</p>	<p>See Policy PR-1 above</p>
<p>PR-23. Funding. Establish and maintain a public and private funding program for park and recreation facilities development and maintenance.</p> <p>PR-23a. Funding. Seek new and ongoing sources of funds for park development and maintenance. Pursue private donation and dedications, Federal, State and other grant sources, use of assessment districts, public/private joint ventures and all other available means to implement park and recreation policies. Sources of funding include user fees, the Capital Improvements program, Friends of San Rafael for specific parks, private foundations, and the</p>	

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<p>Parkland Dedication Ordinance. Encourage the dedication of land for parks, as well as monetary contributions and gifts-in-kind for facilities and programs. Consider naming park facilities in exchange for significant donations to an ongoing maintenance fund.</p> <p>PR-24. Contributions by Rental Residential Development. Explore the feasibility of requiring contributions from rental residential development towards park improvements.</p> <p>PR-24a. Rental Residential Contributions. Evaluate the feasibility of adopting an ordinance to require developers of apartments to contribute to park improvements. Responsibility: Community Services, City Attorney Timeframe: Ongoing Resources: Staff Time</p>	<p>TBD</p>
<p>PR-25. Contributions by Ownership Residential Development. Require developers of new residential housing to provide for the recreational needs of future residents of that development in accordance with Recreation Element standards and Quimby Act Subdivision Parkland Dedication Requirements. Needs would be satisfied by the dedication of land and development of recreation facilities to serve the new residents. In-lieu fees will be required if a finding is made that dedication and development of parkland is not a feasible or appropriate option.</p> <p>PR-25a. Parkland Dedication Ordinance. Maintain and update as necessary the Parkland Dedication Ordinance Responsibility: Community Services, City Attorney Timeframe: Ongoing</p>	<p>N/A</p>

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Resources: Staff Time	
SUSTAINABILITY ELEMENT	
<p>SU-3. Alternative Fuel and Fuel Efficient Vehicles. Promote the use of alternative fuel and fuel efficient vehicles.</p> <p>SU-3a. Public Charging Stations. Install charging stations for plug-in electric vehicles in City garages and parking lots.</p> <p>SU-3c. Regional Charging Stations. Support regional efforts to encourage use of plug-in electric vehicles and widespread availability of charging stations for electric vehicles.</p>	<p>The applicant will be encouraged to install EV charging on site.</p>
<p>SU-4. Renewable Energy. Increase the supply of renewable energy sources. Promote and encourage residences to be resource, energy and water efficient by creating incentives and removing obstacles to promote their use.</p> <p>SU-4a. Marin Energy Authority. Support efforts of the Marin Energy Authority to increase the proportion of renewable power offered to residents and businesses and to provide financial and technical assistance for energy efficiency upgrades.</p> <p>SU-4g. Clean Energy Production. Encourage options, such as photovoltaic cells, for energy production. Seek ways to provide incentives for solar and clean energy systems.</p>	<p>TBD</p>
<p>SU-6. Resource Efficiency in Site Development.</p>	<p>The applicant will be required to submit a Greenhouse gas Assessment and Energy use assessment.</p>

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<p>Encourage site planning and development practices that reduce energy demand, support transportation alternatives and incorporate resource- and energy-efficient infrastructure.</p> <p>SU-6a. Site Design. Evaluate as part of development review, proposed site design for energy-efficiency, such as shading of parking lots and summertime shading of south-facing windows.</p>	<p>Appropriate mitigations measures will be addressed during the environmental review of the project.</p>
<p>SU-7. New and Existing Trees. Plant new and retain existing trees to maximize energy conservation and carbon sequestration benefits.</p> <p>SU-7b. Tree Preservation. Adopt ordinances to regulate the removal and replacement of significant trees.</p> <p>SU-7c. Parking Lot Landscaping. Maintain zoning regulations for parking lot landscaping to increase shading and reduce thermal gain.</p> <p>SU-7c. Carbon Offset Program. Consider the feasibility of a local carbon offset program to support tree planting and maintenance.</p>	<p>TBD</p> <p>The applicant will be required to include a tree preservation plan and comply with parking lot landscaping requirements as part of the formal application.</p>
<p>SU-9. Social Diversity and Equity. Enhance social equity among all segments of the community.</p> <p>SU-9a. Affordable Housing. Continue to expand the supply of affordable housing, which reduces commute times and congestion.</p>	<p>See Policy H-9 above</p>
<p>SU-10. Zero Waste. Reduce material consumption and waste generation, increase resource re-use and composting of organic waste,</p>	<p>TBD as part of environmental review with contribution from Marin Sanitary Services</p>

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<p>and recycle to significantly reduce and ultimately eliminate landfill disposal.</p> <p>SU-10g. Recycling for Apartments and Nonresidential Buildings. Encourage recycling facilities and programs for apartment and nonresidential buildings. Consider the cost and benefits of expanding recycling facilities and programs for apartment and nonresidential buildings.</p>	
<p>SAFETY ELEMENT</p>	
<p>S-1. Location of Future Development. Permit development only in those areas where potential danger to the health, safety, and welfare of the residents of the community can be adequately mitigated.</p> <p>S-1a. Entitlement Process. Through the entitlement process, evaluate applications for geoseismic and hazardous materials dangers and require appropriate mitigations. Responsibility: Community Development, Fire Timeframe: Ongoing Resources: Fees</p>	<p>The applicant will need to submit technical studies that evaluate soil stability, seismic hazards, hazardous materials, fire safety and other health and safety related issues.</p>
<p>S-2. Location of Public Improvements. Avoid locating public improvements and utilities in areas with identified flood, geologic and/or soil hazards to avoid any extraordinary maintenance and operating expenses. When the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.</p>	<p>See S-1 above</p>
<p>See S-1a (Entitlement Process). S-3. Use of Hazard Maps in Development Review. Review Slope Stability, Seismic Hazard, and Flood Hazard</p>	<p>See S-1 above</p>

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<p>Maps at the time a development is proposed. Undertake appropriate studies to assure identification and implementation of mitigation measures for identified hazards.</p> <p>See S-1a (Entitlement Process).</p> <p>S-4. Geotechnical Review. Continue to require geotechnical investigations for development proposals as set forth in the City's Geotechnical Review Matrix (Appendix F). Such studies should determine the actual extent of geotechnical hazards, optimum design for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed facility in a specified location.</p>	<p>See S-1 above</p>
<p>S-5. Minimize Potential Effects of Geological Hazards. Development proposed within areas of potential geological hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Development in areas subject to soils and geologic hazards shall incorporate adequate mitigation measures. The City will only approve new development in areas of identified hazard if such hazard can be appropriately mitigated.</p> <p>See LU-2a (Development Review).</p> <p>S-6. Seismic Safety of New Buildings. Design and construct all new buildings to resist stresses produced by earthquakes. The minimum level of seismic design shall be in accordance with the most recently adopted building code as required by State law.</p> <p>S-6a. Seismic Design. The minimum seismic design of structures should be in accordance with the building code, as adopted in accordance with State law.</p>	<p>See S-1 Above</p>

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<p>See CA-14a (Historic Building Codes).</p> <p>S-7. Minimize Potential Effects of Landslides. Development proposed in areas with existing landslides or with the potential for landslides (as identified by a registered engineering geologist or geotechnical engineer) shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Development in areas subject to landslide hazards shall incorporate adequate mitigation measures that have a design factor of safety of at least 1.5 for static conditions and 1.0 for pseudo-static (earthquake) conditions. The landslide mitigation should consider multiple options in order to reduce the secondary impacts (loss of vegetation, site grading, traffic, visual) associated with landslide mitigation. The City will only approve new development in areas of identified landslide hazard if such hazard can be appropriately mitigated.</p> <p>See S-4a (Geotechnical Review of Proposed Development).</p>	<p>N/A</p>
<p>S-8. Seismic Safety of Existing Buildings. Encourage the rehabilitation or elimination of structures susceptible to collapse or failure in an earthquake. Historic buildings shall be treated in accordance with the Historic Preservation Ordinance.</p> <p>S-8a. Seismic Safety Building Reinforcement. Enforce State and local requirements for reinforcement of existing buildings. See CA-14c (Incentives).</p>	<p>See S-1 above</p>
<p>S-18 Storm Drainage Improvements. Require new development to improve local storm drainage facilities to accommodate site runoff anticipated from a "100-year" storm.</p> <p>S-18a. Storm Drainage Improvements. Require that</p>	<p>The applicant will need to include storm drainage improvements in accordance with City Requirements as part of the formal application</p>

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<p>new development proposals which are likely to affect the limited capacity of downstream storm drainage facilities provide a hydrological analysis of the storm drain basin of the proposed development and evaluate the capacity of existing downstream storm drainage facilities and fund improvements to accommodate increased drainage from the project site resulting from a 100-year storm, where practical.</p>	
<p>S-22. Erosion. Require appropriate control measures in areas susceptible to erosion, in conjunction with proposed development. Erosion control measures and management practices should conform to the most recent editions of the Regional Water Quality Control Board's Erosion and Sediment Control Field Manual and the Association of Bay Area Governments' Manual of Standards for Erosion and Sediment Control or equivalent.</p> <p>S-22a. Erosion Control Programs. Review and approve erosion control programs for projects involving grading one acre or more or 5,000 square feet of built surface as required by Standard Urban Stormwater Management Plans (SUSUMP). Evaluate smaller projects on a case-by-case basis.</p> <p>S-22b. Grading During the Wet Season. Discourage grading during the wet season and require that development projects implement adequate erosion and/or sediment control and runoff discharge measures.</p>	<p>TBD at time of formal application.</p>
<p>S-24. Creeks and Drainageways. Seek to retain creek channels in their natural state in order to prevent undue erosion of creek banks. Protect creekside habitat and provide maintenance access along creeks where appropriate.</p>	<p>TBD at time of formal application</p>

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<p>S-24a. Agency Permits. Through development review, consult with and require necessary permits from State and Federal resource agencies, such as U.S. Army Corps of Engineers, California Fish and Game, Bay Conservation and Development Commission, and the Regional Water Quality Control Board.</p> <p>See CON-6a (Municipal Code Compliance) and CON-8a (Creek Restoration).</p>	
<p>S-25. Regional Water Quality Control Board (RWQCB) Requirements Continue to work through the Marin County Stormwater Pollution Prevention Program to implement appropriate Watershed Management plans as dictated in the RWQCB general National Pollutant Discharge Elimination System permit for Marin County and the local stormwater plan.</p> <p>S-25a. Compliance with RWQCB. Review development plans for compliance with RWQCB permit, in conjunction with Marin County Stormwater Pollution Prevention Program (MCSTOPP).</p>	<p>TBD</p>
<p>S-30. Maintenance and Landscaping for Fire Safety. Encourage, where appropriate, special planting, removal and maintenance programs to reduce potential fire hazards in the hills, wildland areas and urban interface areas.</p> <p>S-30a. Fire Hazard Maps. As part of the City's Fire Hazard Program, maintain maps identifying potential fire hazard areas in San Rafael.</p> <p>S-30b. Fire Protection Ordinance. Continue to implement Wildlife Urban Interface (WUI) standards within the Ordinance to reduce fire hazards in areas in the urban interface area.</p>	<p>TBD at time of formal application.</p>

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<p>See OS-2 (Open Space Management).</p> <p>S-31. New Development in Fire Hazard Areas. Design new development located on or adjacent to natural hillsides to minimize fire hazards to life and property.</p> <p>S-31a. New Development. Through the development review process, require appropriate mitigation measures such as fire preventive site design, landscaping and building materials, and the use of fire suppression techniques such as sprinklering.</p>	<p>The project site is adjacent to WUI boundary. The application will need to identify how the project will address fire hazards</p>
<p>S-32. Safety Review of Development Projects. Require crime prevention and fire prevention techniques in new development, including adequate access for emergency vehicles.</p> <p>S-32a. Safe Buildings. Continue to review development applications to insure that landscaping, lighting, building siting and design, emergency access, adequate water pressure and peakload storage capacity, and building construction materials reduce the opportunity for crime and fire hazards.</p> <p>See LU-2a (Development Review).</p>	<p>TBD with coordination from Fire Department</p>
<p>NOISE ELEMENT</p>	
<p>N-1. Noise Impacts on New Development. Protect people in new development from excessive noise by applying noise standards in land use decisions. Apply the Land Use Compatibility Standards (see Exhibit 31) to the siting of new uses in existing noise environments. These standards identify the acceptability of a project based on noise exposure. If a project exceeds the standards in Exhibit 31, an acoustical analysis shall be required to</p>	<p>TBD The applicant will need to submit a noise study as part of the formal application</p>

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<p>identify noise impacts and potential noise mitigations. Mitigation should include the research and use of state-of-the-art abating materials and technology.</p> <p>N-1a. Acoustical Studies. Require acoustical studies for all new residential projects within the projected Ldn 60 dB noise contours (see Exhibit 31) so that noise mitigation measures can be incorporated into project design. Acoustical studies shall identify noise sources and contain a discussion of the existing and future noise exposure and the mitigation measures that may be used to achieve the appropriate outdoor and indoor noise standards.</p>	
<p>N-2. Exterior Noise Standards for Residential Use Areas. The exterior noise standard for backyards and/or common usable outdoor areas in new residential development is up to Ldn of 60 dB. In common usable outdoor areas in Downtown, mixed-use residential, and high density residential districts, up to Ldn of 65 dB may be allowed if determined acceptable through development review. See N-1a (Acoustical Studies).</p>	<p>TBD The applicant will need to submit a noise study as part of the formal application</p>
<p>N-3. Planning and Design of New Development. Encourage new development to be planned and designed to minimize noise impacts from outside noise sources.</p> <p>N-3a. Noise Mitigation. Require, where appropriate, the following mitigation measures to minimize noise impacts on proposed development projects:</p> <ol style="list-style-type: none"> Site planning. Proper site planning is the first mitigation measure that should be investigated to reduce noise impacts. By taking advantage of the natural shape and terrain of the site, it often is possible to arrange the buildings and other uses in 	<p>TBD The applicant will need to submit a noise study as part of the formal application</p>

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- a manner that will reduce and possibly eliminate noise impacts. Specific site planning techniques include:
- a. Increasing the distance between the noise source and the receiver;
 - b. Placing non-noise sensitive land uses such as parking lots, maintenance facilities, and utility areas between the source and the receiver;
 - c. Using non-noise sensitive structures such as garages to shield noise-sensitive areas; and
 - d. Orienting buildings to shield outdoor spaces from a noise source.
2. **Architectural layout of buildings.** In many cases, noise reduction can be attained by careful layout of noise-sensitive spaces. Bedrooms, for example, should be placed away from freeways. Quiet outdoor spaces can be provided next to a noisy highway by creating a U-shaped development, which faces away from the highway.
3. **Noise Barriers.** Absorptive types of noise barriers or walls should be used to reduce noise levels from ground transportation noise sources and industrial sources. A barrier must interrupt the line of sight between the noise source and the receiver in order to reduce noise level both outdoors and indoors. A barrier should provide at least Ldn 5 dB of noise reduction to achieve a noticeable change in noise levels.
4. **Construction modifications.** If site planning, architectural layout, noise barriers, or a combination of these measures does not achieve the required noise reduction, then mitigation should be facilitated through construction

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<p>modification to walls, roofs, ceilings, doors, windows.</p> <p>5. Alternatives to Sound Walls. Encourage new development to identify alternatives to the use of sound walls to ease noise impact</p> <p>N-5. Traffic Noise from New Development. Minimize noise impacts of increased off-site traffic caused by new development. Where the exterior Ldn is 65 dB or greater at a residential building or outdoor use area and a plan, program, or project increases traffic noise levels by more than Ldn 3 dB, reasonable noise mitigation measures shall be included in the plan, program or project.</p> <p>N-5a. Traffic Noise Studies. Require acoustical studies to evaluate potential off-site noise impacts resulting from traffic generated by new development.</p>	<p>TBD</p> <p>The applicant will need to submit a noise study as part of the formal application</p>
<p>OPEN SPACE</p> <p>OS-1. Open Space Preservation. Preserve, through a variety of methods, the open space areas identified in the Inventory of Potential Open Space Sites (See Appendix I). Retain and protect open space areas that serve as delineators between neighborhoods and between adjacent communities, as wildlife habitat, and as visual assets for the community. Open space areas can also function as connections between neighborhoods, for example with the creation of pathways in environmentally appropriate areas.</p> <p>OS-1a. Open Space Inventory. Update the Inventory of Potential Open Space Sites. Identify and prioritize open space parcels for future protection. Maximize the use of available resources when assessing City involvement in</p>	<p>The property is identified as a potential open space site in Appendix I of the General Plan. General Plan Policy OS-1. Open Space Preservation calls for the preservation of these site as they serve as delineators between neighborhoods and between adjacent communities, as wildlife habitat, and as visual assets for the community. While the City is not inclined to purchase this property, the applicant will need demonstrate compliance with OS-1b. Preservation Opportunities by showing an effort to preserve open space and provide access to the open space property uphill of the site. The plans submitted for review show how the applicant proposes to accomplish this by proposing development closer to the roadway, leaving a certain amount of area open, and incorporating pedestrian pathways. The plans also show pedestrian pathways that extend beyond the project site. The applicant will need to clarify whether this is intended to be part of the project and if so the Environmental Document for the project will need to evaluate the potential effects of these off-site improvements. In accordance with General Plan Policy OS-3. Open Space Use. the applicant will need to demonstrate that every effort is made toward protection of natural value of open space and wildlife habitat areas such that open space areas are maintained indefinitely in a natural state and where feasible open space areas becomes a community resource.</p>

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<p>securing open space by applying the following non-prioritized evaluation criteria:</p> <ul style="list-style-type: none"> A. Environmental health and safety issues (specifically geology and hydrology), and potential geoseismic hazards. B. Resource Areas and Aesthetics (visual backdrop or edge, unique site features, shorelines/ridgelines, wetlands, wildlife habitat including wildlife movement corridors and habitat for endangered species). C. Importance to the community as a whole or adjoining neighborhoods. D. Merits of alternative uses. E. Proximity to other open space areas. F. Recreation potential. G. Accessibility. H. Availability of outside financial assistance. I. Potential maintenance and management costs and liability exposure for the City. <p>Responsibility: Community Development Timeframe: Long Term Resources: Staff Time, Grants</p>	
<p>OS-1b. Preservation Opportunities. Through the development review process, preserve open space areas identified on the Open Space Inventory. Encourage the dedication of open space areas that are adjacent to public open space. Possibilities also include acquisition of fee title or acquiring easements for preserving open space. When potential open space is not contiguous to existing public open space, the preference is to retain the open space in private ownership. When portions of a site are retained as private open space, ensure the preservation and management of that open space through appropriate means, including required maintenance, as determined through development review. Work with other public and</p>	

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<p>non-profit agencies to identify sources for acquisition and maintenance of open space.</p> <p>OS-1c. Cluster Development. As part of the development review process, encourage the clustering of development to preserve desired open space.</p>	
<p>OS-3. Open Space Use. Protect and preserve the natural value of open space and wildlife habitat areas while permitting educational and recreational uses compatible with these resources. Specific use objectives include:</p> <ul style="list-style-type: none"> a. Open space areas should be maintained in a natural state. b. Open space areas are a community resource for use and enjoyment by the residents of San Rafael. c. Uses of open space areas shall be secondary to open space preservation, and limited to those uses with a minimal impact on the environment. <p>OS-3a. Management of Private Open Space. In designating open space as part of a development project or with the dedication of land for open space, identify limitations to uses in those areas, such as restrictions on ornamental landscaping, structures and fences.</p>	<p>See OS-1 above</p>
<p>See OS-2a (Open Space Management Plans).</p> <p>OS-4. Access to Open Space. Encourage provision of access to open space areas in the design of adjacent development. Secure access paths shown on Exhibit 34 as part of subdivision approvals and design access paths to avoid or minimize neighborhood and user conflicts with sensitive wildlife habitat areas.</p> <p>OS-4a. Access Points. Through the development review process, identify access points and parking areas to be</p>	

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<p>retained and required improvements.</p>	
<p>CONSERVATION ELEMENT</p>	
<p>CON-1. Protection of Environmental Resources. Protect or enhance environmental resources, such as ridgelines, wetlands, diked baylands, creeks and drainageways, shorelines and habitat for threatened and endangered species.</p> <p>CON-1a. Plans for Environmental Protection. Complete the implementation of Mahon Creek Final Conceptual Plan and the Shoreline Park Master Plan.</p> <p>See LU-2a (Development Review).</p>	<p>Drainageway/Wetlands</p> <p>The property contains a drainage that crosses the site in a west/east direction and eventually drains into Gallinas Creek. According to Marin Map this drainageway could qualify as a wetland. A biological assessment of the drainageway will need to be prepared to determine wetland and habitat value and to identify impacts and mitigation measures, including provision of appropriate setbacks and development parameters in compliance with General Plan Policies CON-1. Protection of Environmental Resources, CON-2. Wetlands Preservation, and CON-3. Wetland Protection and Mitigation. In addition, the project plans will need to show a 25 to 50-foot setback buffer from any drainage or wetland in compliance with General Plan Policy CON-4. Wetland Setbacks and CON-6. Creek and Drainageway Setbacks, unless a lesser setback can be supported by the biological assessment.</p> <p>Protection of Special Status Species</p> <p>A biological assessment will need to be prepared to evaluate the potential presence of special status species and/or sensitive habitat in accordance with General Plan Policies CON-9. Native and/or Sensitive Habitats, CON-10. Impacts to Sensitive Habitat, CON-11. Wildlife Corridors, CON-13. Threatened and Endangered Species, and CON-14. Special Status Species. A biological assessment will need to include absence of presence of species; identify areas that are considered riparian; potential for impact; and identify recommended mitigation measures to minimize impacts.</p> <p>See CON-1 above.</p>
<p>CON-2. Wetlands Preservation. Require appropriate public and private wetlands preservation, restoration and/or rehabilitation through compensatory mitigation in the development process for unavoidable impacts. Support and promote acquisition of fee title and/or easements from willing property owners.</p> <p>CON-2a. Wetlands Overlay District. Continue to implement wetlands policy through the Wetlands Overlay zoning district and development review. See also OS-1a (Open Space Inventory), OS-1b (Preservation Opportunities), and OS-1c (Cluster Development).</p>	

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<p>CON-3. Wetland Protection and Mitigation. In order to protect and preserve valued wetlands, loss of wetlands due to filling shall be avoided, unless it is not possible or practical. When it is demonstrated that it is not possible or practical to avoid filling a wetland because of site constraints and conditions such as the geographic location of the wetlands, site configuration and size, require that the wetland be replaced on-site, and in-kind at a minimum ratio of 2:1 (e.g., 2 acres for each acre lost). If it is determined that on-site mitigation is not possible or practical, off-site mitigation shall be required at a minimum replacement ratio of 3:1. As assessed and determined on a case-by-case basis, the City may waive this policy for fill of small wetlands (0.1 acre or less in size), provided that: (1) the wetland is isolated meaning that it is not within, a part of, directly connected with or hydrologically-linked by natural flow to a creek, drainageway, wetland or submerged tidlands; (2) it is demonstrated by a wetland expert that the preservation of the wetland is not practical as it would not result in a functioning, biological resource because of its isolation; (3) the City has determined that filling would result in a more appropriate and desirable site plan for the project; and (4) the City consults with and considers comments received from the appropriate resource agencies with wetland oversight (State of California Department of Fish and Game and/or the California Regional Water Quality Control Board).</p> <p>a. Creation of Wetlands. The creation of wetlands shall be (1) of a similar habitat type to that of the existing wetlands and (2) of at least equal functional quality. The wetlands should be created or restored on or adjacent to the site, where possible. If on-site creation is infeasible due to technical constraints, compensatory habitat</p>	<p>See CON-1 above</p>
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<p>may be created off-site, preferably in the same drainage basin. Restoration of former filled, drained or diked wetland habitat is preferred over creation of wetlands on lands that were historically uplands. Plans for this habitat shall be prepared by a qualified wetland restoration ecologist in consultation with appropriate federal and state resource agencies. Mitigation plans shall require an annual monitoring for a period of time as specified by a qualified biologist to determine mitigation success. Contingency measures to deal with the potential for a lack of success should also be included in the plan.</p> <p>b. Timing of Restoration or Creation. Restoration or creation of wetlands should be completed prior to construction of the development. Where construction activities would adversely impact wetland restoration or creation, wetlands restoration or creation may be completed after construction of the development, as determined through development review.</p> <p>CON-3a. Project Mitigation. Continue the City's practice of requiring mitigation for projects that would affect wetlands, in conjunction with recommendations of State and Federal agencies.</p>	
<p>CON-4. Wetland Setbacks. Maintain a minimum 50-foot development-free setback from wetlands, including, but not limited to, paving or structures. Setbacks of greater than 50 feet may be required on lots of two or more acres as determined through development review. The City may waive this requirement for minor encroachments if it can be demonstrated that the proposed setback adequately protects the functions of the wetland to the maximum</p>	<p>See CON-1 above.</p>

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<p>extent feasible and resulting values to the satisfaction of the City after review by the appropriate regulatory agencies.</p> <p>See CON-2a (Wetlands Overlay District).</p> <p>CON-6. Creek and Drainage Setbacks. Require development-free setbacks, except for specific access points as approved per policy CON-7 (Public Access to Creeks), from existing creeks and drainageways that will maintain the functions and resulting values of these habitats. Appropriate erosion control and roadway crossings may encroach into the development setback. In the absence of vegetation, promote new growth of natural habitat.</p> <p>a. Creek Setback. Maintain a minimum 25-foot development-free setback from the top of creek banks for all new development (including, but not limited to, paving and structures), except for Miller Creek and its tributaries, where a minimum 50-foot setback shall be maintained. Setbacks up to 100 feet may be required on lots or development projects two or more acres in size where development review determines a wider setback is needed to maintain functions and resulting habitat values and in areas where high quality riparian habitat exists. The City may waive this requirement for minor encroachments if it can be demonstrated that the proposed setback adequately protects the functions of the creek to the maximum extent feasible and resulting values to the satisfaction of the City after review by the appropriate regulatory agencies.</p> <p>b. Drainage Setbacks. Drainage setbacks shall be established through individual development review, taking into account existing</p>	<p>See CON-1 above.</p>
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<p>habitat functions and resulting values.</p>	
<p>CON-8. Enhancement of Creeks and Drainageways. Explore enhancement of, and support continuous upgrades to, drainageways to serve as wildlife habitat corridors for wildlife movement and to serve as flood control facilities to accommodate storm drainage. Require creek enhancement and associated riparian habitat restoration/creation for projects adjacent to creeks to maintain storm flows, reduce erosion and maintenance and improve habitat values, where feasible.</p>	
<p>CON-8b. Tree Retention. Retain trees along creeks, where possible, for preservation of riparian habitat and to inhibit growth of algae.</p>	
<p>CON-9. Native and/or Sensitive Habitats. Protect habitats that are sensitive, rare, declining, unique or represent a valuable biological resource.</p>	<p>See CON-1 above.</p>
<p>CON-10. Impacts to Sensitive Habitats. Minimize impacts to sensitive natural habitats through careful planning. Require compliance with applicable laws and regulations.</p> <p>CON-10a. Oak Savanna/Woodland Habitat Protection. Require that proposed developments with potential impacts to oak savanna/woodland habitat to either avoid, minimize, or compensate for the loss of oak savanna/woodland habitat. Avoidance would be the preferred measure where feasible. If it is deemed that an impact is unavoidable, minimization of direct and indirect impacts or compensation through habitat restoration,</p>	<p>See CON-1 above.</p>

Exhibit 5

**TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002**

<p>creation, or enhancement would be required.</p>	
<p>CON-11. Wildlife Corridors. Preserve and protect areas that function as wildlife corridors, particularly those areas that provide natural connections permitting wildlife movement between designated sensitive habitats.</p>	<p>See CON-1 above.</p>
<p>CON-12. Preservation of Hillsides. Encourage preservation of hillsides, ridgelines and other open areas that serve as habitat and erosion protection as well as visual backdrops to urban areas.</p>	<p>See CON-1 above.</p>
<p>CON-13. Threatened and Endangered Species. Preserve and protect threatened and endangered species of plants and animals formally listed consistent with the state and federal endangered species acts including protection of their habitat.</p>	<p>See CON-1 above.</p>
<p>CON-13a. List of Species. Maintain a current list of threatened and endangered and special status species.</p>	
<p>See LU-2a (Development Review).</p> <p>CON-14. Special Status Species. Preserve and protect special status plants and animals, including candidate species for listing under the state and federal endangered species acts, California species of special concern, California Native Plant Society List 1B plants, and other species protected under provisions of California Fish and Game Code.</p>	<p>See CON-1 above.</p>
<p>CON-14a. Surveys. Require that vacant sites be surveyed for the presence or absence of relevant special status species prior to development approval.</p>	

Exhibit 5

**TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002**

<p>CON-14b. Minimization. Require that where impacts to special status species are deemed unavoidable, potential impacts to the identified species are minimized through design, construction, and operation of the project. Compensation measures could include on-site set asides or off-site acquisitions (e.g. conservation easements, deed restrictions, etc.) that would be required if project impacts result in direct loss or indirect impacts that cannot be mitigated in other ways. This might also involve species-specific enhancement restoration efforts for the mitigation lands. See LU-2a (Development Review).</p>	
<p>CON-16. Landscape with Native Plant Species. Encourage landscaping with native and compatible non-native plant species, especially drought-resistant species.</p> <p>CON-16a. Distribution of Information. Distribute Marin Municipal Water District and other organizations' educational materials about native plant landscaping.</p>	<p>TBD at time of formal application</p>
<p>AIR AND WATER QUALITY ELEMENT</p>	
<p>AW-2. Land Use Compatibility. To ensure excellent air quality, promote land use compatibility for new development by using buffering techniques such as landscaping, setbacks, and screening in areas where different land uses abut one another.</p> <p>AW-2a. Sensitive Receptors. Through development review, ensure that siting of any new sensitive receptors provides for adequate buffers from existing sources of toxic air contaminants or odors. If development of a sensitive receptor (a facility or land use that includes members of the population sensitive to the effects of air pollutants, such as children, the elderly and people with</p>	<p>TBD as part of formal review and environmental review process</p>

Exhibit 5

**TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002**

<p>illnesses) is proposed within 500 feet of Highway 101 or I-580, an analysis of mobile source toxic air contaminant health risks should be performed. Development review should include an evaluation of the adequacy of the setback from the highway and, if necessary, identify design mitigation measures to reduce health risks to acceptable levels.</p> <p>AW-2b. Buffers. Through development review, ensure that any proposed new sources of toxic air contaminants or odors provide adequate buffers to protect sensitive receptors and comply with existing health standards.</p>	
<p>AW-3. Air Quality Planning with Other Processes. Integrate air quality considerations with the land use and transportation processes by mitigating air quality impacts through land use design measures, such as encouraging project design that will foster walking and biking.</p> <p>AW-3a. Air Pollution Reduction Measures. Consider revisions to zoning regulations to require developers to implement strategies for air quality improvement described in the BAAQMD/ABAG’s guide “Design Strategies for Encouraging Alternatives to Auto Use Through Local Development Review” or subsequent standards.</p> <p>AW-3b. Smart Growth and Livable Communities Programs. Participate in and implement strategies of Metropolitan Transportation Commission’s regional “Smart Growth Initiative” and “Transportation for Livable Communities Program.”</p>	<p>TBD as part of formal review and environmental review process</p>
<p>AW-6c. Landscaping. Continue to implement Zoning Guideline for landscaping in order to absorb pollutants.</p>	<p>TBD as part of formal review.</p>
<p>AW-8. Reduce Pollution from Urban Runoff. Address non-point source pollution and protect receiving</p>	<p>TBD as part of formal review</p>

Exhibit 5

**TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002**

- waters from pollutants discharged to the storm drain system by requiring Best Management Practices quality.
- Support alternatives to impervious surfaces in new development, redevelopment, or public improvement projects to reduce urban runoff into storm drain system, creeks, and the Bay.
 - Require that site designs work with the natural topography and drainages to the extent practicable to reduce the amount of grading necessary and limit disturbance to natural water bodies and natural drainage systems.
 - Where feasible, use vegetation to absorb and filter fertilizers, pesticides and other pollutants.

AW-8a. Proper Disposal of Pollutants. Continue to promote proper disposal of pollutants to the sanitary sewer or hazardous waste facilities rather than to the storm drainage system.

AW-8b. Compliance by Contractors. Continue to require contractors to comply with accepted stormwater pollution prevention planning practices for all projects subject to erosion potential. Also, continue to require the proper use, storage and disposal of on-site materials.

AW-8c. System Improvements. Improve storm drainage performance by constructing new system improvements. Evaluate stormwater volumes when replacing undersized or otherwise inadequate lines with larger or parallel lines.

AW-8d. Pesticide and Fertilizer Management. On City property, encourage the appropriate reduction of pesticides and fertilizers to the maximum extent feasible. Ensure that the application of pesticides on City property is accomplished in accordance with all applicable rules and regulations.

Exhibit 5

TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2020
LOS GAMOS APARTMENTS CDR19-002

<p>AW-8e. Public Water Management. Review areas where public water management procedures are used to convey stormwater to the stormdrain system, including streets, which also convey stormwater to the stormdrain system. See I-10a (Coordination of Services) and S-19a (Incremental Flood Control Improvements).</p>	
<p>AW-9. Erosion and Sediment Control. Establish development guidelines to protect areas that are particularly susceptible to erosion and sediment loss.</p> <p>See S-22a (Erosion Control Programs) and S-22b (Grading During the Wet Season).</p>	<p>TBD as part of formal review.</p>

Alicia Giudice

From: Schmiedeberg, Aaron [REDACTED]
Sent: Friday, January 10, 2020 10:05 AM
To: Alicia Giudice
Subject: Las Gamos Development
Attachments: Las Gamos Development.pdf

Good Morning Ma'am,

Please see my attached letter in support of the requested Zoning change for the Los Gamos Development. Thank you and have a great day!

v/r,

Aaron T. Schmiedeberg
SSG, USA
Healthcare Recruiter
[REDACTED]
[REDACTED]
[REDACTED] Website: <http://recruiting.army.mil/mark>

Alicia Giudice

From: Jason Mcllvain <[REDACTED]@gmail.com>
Sent: Wednesday, January 8, 2020 4:11 PM
To: Alicia Giudice
Subject: Neighborhood at Los Gamos

Dear Ms. Giudice,

This development is greatly needed and will help our community. Please consider changing the zoning on this lot to allow for construction of the Neighborhood at Los Gamos.

With gratitude,

Jason and Shawna Mcllvain

--

Jason Mcllvain

[REDACTED]

[REDACTED]

[REDACTED]

Alicia Giudice

From: stanton klose [REDACTED]
Sent: Saturday, January 4, 2020 7:07 PM
To: Alicia Giudice
Subject: "Vacant Lot at End of Los Gamos"

Hello,

Are we talking about Los Gamos Road or Los Gamos Drive? Which end? It's hard to imagine a lot at any of these locations large enough to accommodate a 180 unit residential development and associated functions.

Stanton Klose

[REDACTED]
San Rafael

Alicia Giudice

From: Becky Page <[REDACTED]>
Sent: Friday, January 3, 2020 7:38 PM
To: Alicia Giudice
Subject: Re: "Terra Linda Apartments"

Hi, Ali,
Invitation. Unfortunately I just saw this today, Friday, in the evening.

I would welcome the opportunity to have a conversation with you. Our community has been very involved in the Northgate Walk project, because of our Restrictions document that applies to the property in question, barring the building of apartment houses on that site. In fact, we're going to court in May with the developer about it; he has sued us and wants a judge to decide on the validity of our 1964 document.

Every single proposed development in Terra Linda so far is within a half mile of us (sometimes mere yards!) and will negatively affect the traffic in the whole valley.

Thanks again for your kind offer to communicate. In the afternoon next week is best for me. Will that work for you?

On Mon, Dec 30, 2019, 3:42 PM Alicia Giudice <Alicia.Giudice@cityofsanrafael.org> wrote:

Becky- i would love to have a phone call on friday morning if you are available. Or sometime next week perhaps. I am guessing you are probably already familiar with the application process but I wouldn't mind starting a conversation. I am a relatively newer employee (2 years in February) and am still getting to know our community members. Please let me know if friday morning works for you

Thanks and Happy New Year!

Ali Giudice

On Dec 30, 2019, at 3:06 PM, Becky Page <[REDACTED]> wrote:

Thanks, Ali. I apparently sent this *while* I was typing.

I really am grateful for your quick response, and over a weekend, no less! Needless to say, my community will be following this project closely. Between Northgate Walk---where San Rafael Manor actually has a restrictions document that applies, the insane Costco-at-Northgate idea, and "The Neighborhood", I really am wondering what Terra Linda did to piss off the City planners. Each of these alone, and all combined, will frankly destroy what our valley has been, and the ability of our residents to access the freeway without waiting through four or five light changes at most intersections.

.....

Becky P
<[REDACTED]>

On Mon, Dec 30, 2019 at 2:59 PM Becky Page <[REDACTED]> wrote:
Thanks, Alicia. I really am grateful for your quick response

.....

Becky Page
[REDACTED]

On Sun, Dec 29, 2019 at 3:07 PM Alicia Giudice <Alicia.Giudice@cityofsanrafael.org> wrote:
Hi Becky. The property is located on the hillside on the southwest end of Los Gamos Drive. It is the hillside behind that office building that is located at 1401 Los Gamos Drive. The property is accessed from Lucas Valley Road and they are **not** proposing vehicle access from the Los Gamos Road and Oleander. You can view the project plans on the City's Major projects website at

https://www.cityofsanrafael.org/los_gamos_apartments/

Hopefully that gives you a better understanding of the location and the project.

The applicant initially inquired about development of this site through an informal pre-application in early summer. This current proposal was submitted in late November as a request for conceptual review requesting early feedback from the Planning Commission. The Planning Commission's review is a preliminary review intended to allow the Planning Commission as well as interested community members an opportunity to comment on the proposal.

Feel free to reach out if you have additional questions.

Thanks!
Ali Giudice

From: Becky Page [REDACTED]
Sent: Sunday, December 29, 2019 9:09 AM
To: Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>
Subject: "Terra Linda Apartments"

Dear Ms. Giudice,

I need some information ASAP from your office. Granted this news comes from the IJ, a surprising newspaper for such an educated area as Marin, but I see a developer has proposed a 180-unit apartment complex on the West side of Los Gamos Road. Since the housing cooperative of which I am Board President owns both sides of Los Gamos Road, this is news to me.

Please clarify for me that this development has been proposed for the West side of Los Gamos DRIVE, which is NORTH of us and connects to Lucas Valley Road, which does indeed have a hillside

large enough for someone to consider cramming more people and cars in around the zip code of 94903.

January 8, 2020

Ali Giudice

Senior Planner

City of San Rafael

1400 Fifth Avenue

San Rafael, CA 94901

Alicia.giudice@cityofsanrafael.org

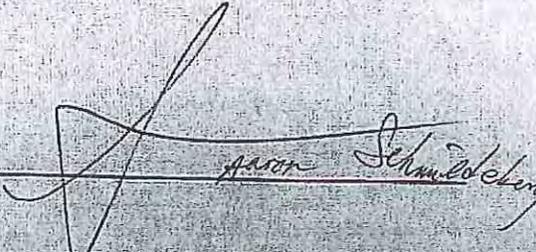
Re: Los Gamos Development

I am writing in support of the requested Zoning Change for the Los Gamos Development, which will be heard before the Planning Commission on January 14, 2020. Please include this letter and my support into the record.

The location of this site is ideal for much-needed workforce housing. It is along the US 101 corridor, close to transit, and will bring housing to the "missing middle" – our teachers, nurses, fire fighters, and the thousands of jobs that have been filled within the City over the last few years.

This is a thoughtful development and will enhance the quality of life for the community.

Sincerely,



Jason Schindler

January 8, 2020

Alli Guidice

Senior Planner

City of San Rafael

1400 Fifth Avenue

San Rafael, CA 94901

Alicia.guidice@cityofsanrafael.org

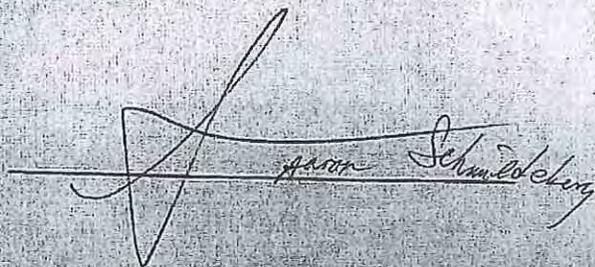
Re: Los Gamos Development

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The location of this site is ideal for much-needed workforce housing. It is along the US 101 corridor, close to transit, and will bring housing to the "missing middle" – our teachers, nurses, fire fighters, and the thousands of jobs that have been filled within the City over the last few years.

This is a thoughtful development and will enhance the quality of life for the community.

Sincerely,



Aaron Schmiedel



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: January 14, 2020
Agenda Item: **3**
Case Numbers: P19-12
Project Planner: Ali Giudice (415) 485-3092

REPORT TO PLANNING COMMISSION

SUBJECT: Annual Meeting of Planning Commission for 2020 to include: a) election of officers; and b) review of Planning Commission “Rules and Procedures”; and c) selection of liaisons to DRB meetings

EXECUTIVE SUMMARY

The Annual Meeting of the Planning Commission is required to elect the Chair and Vice Chair officers for the calendar year. The Annual Meeting also provides the Commission an opportunity to review and consider adoption of revisions to the Planning Commission’s “Rules and Procedures.” The Rules and Procedures were last amended by the Commission at their January 2018 annual meeting. This year, there are a couple changes to the Rules and Procedures that the Planning Commission should consider.

RECOMMENDATION

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

- a) Elect a new Chair and Vice Chair for 2019; and
- b) Accept changes to the Planning Commission “Rules and Procedures;” and
- c) Select Planning Commission liaisons to the DRB for 2020

BACKGROUND AND ANALYSIS

Election of Officers:

Section II.E of the Planning Commission “Rules and Procedures” requires that the Planning Commission conduct an annual meeting to select officers (Chair and Vice Chair) for the calendar year. The Annual Meeting is defined as the “first meeting of the calendar year,” which for this year is January 14, 2020.

The office of the Chair and Vice Chair is rotational, with selection based on seniority or tenure of service. Per the Rules and Procedures, generally, a Commissioner shall not serve as a Chair more than once in seven consecutive years. See attached Exhibit 1, which lists the appointment dates and past service as chair by each of the Commission members.

Chair

Based on the rotation criteria, Commissioner Schoppert is next-in-line to serve as Chair, as he served as Vice Chair for 2019.

Vice Chair

In order to determine the next Vice Chair, the same rules and procedures for Chair apply to Vice Chair. There are two Commissioners who have not served as Chair or Vice Chair in the past 7 years (Commissioner’s Mercado and Samudzi). Commissioner Mercado has the most tenure of the two. Therefore, the Commissioner with the most tenure of service that is also eligible to serve

as Vice Chair (will not have served more than once as chair in past seven years) is Commissioner Mercado and would be the next eligible Vice Chair for 2020.

Therefore, based on the rules and procedures, it is recommended that Commission Schoppert be elected to serve as Chair and Commissioner Mercado be elected to serve as Vice Chair

Consideration of Revisions to Planning Commission “Rules and Procedures”:

The Rules and Procedures were previously reviewed by the Commission annually between 2010 and 2017 and no changes were recommended. During the 2018 annual meeting (1/9/18), the Commission updated their Rules and Procedures.

Staff distributed the current Rules and Procedures to the Commission in December 2019. Staff received one recommended change from Commissioner Schoppert regarding Exparte Communications. In addition, staff is recommending one change that pertains to instances when there is only an informational item on the agenda and there is no-quorum of the Commission. The changes are Described below

Exparte Communications - proposed changes to the Order of Speaking portion of the Commission rules governing the conduct of public hearings on quasi-judicial agenda items.

Revise Section II(I)(2)(c) (Order of Speaking) to add a new subsection (1.) to read as follows:

1. *The Chair shall call for commissioners to make ex parte disclosures and potential conflict of interest disclosures with respect to the proposed project.*

Background information is provided in support of this proposed change as Exhibit 3.

Quorum for Informational Presentations - Last year we had an instance where the Planning Commission was to receive an informational presentation on the status of the Downtown Precise Plan, however, staff realized that there was not a quorum of the Commission. Because the item was an information item with no action to be taken, staff recommended that the Commission proceed with the meeting. However, there is nothing in the Rules and Procedures that discusses how to handle this type of situation. Therefore, staff is recommending the following changes:

Revise Section II(B) by adding the following

4. *A quorum shall not be required to convene a meeting for presentation of information items only where no action by the Commission will be required.*

Revise the Title to Section II(F) as follows

F. Study Sessions/Workshops/Informational Presentations

If there are any additional changes that the Commission would like to consider, these can be discussed at the annual meeting and if the majority of the Commission would like to make the changes, staff can return with the appropriate revisions at a subsequent meeting.

Selection of Commissioners for DRB Liaison:

The annual meeting also provides an opportunity to select Commissioners to serve as a liaison at the Design Review Board meetings for the calendar year. Commissioners (with the exception of the new Chair) are requested to serve as liaison in two month increments, which involve attendance at up to four, regular DRB meetings during the two selected months of service. Therefore, the Commission, except for the new Chair, should select a two month block to serve as liaison.

At the December Meeting the following Commissioner volunteered for the dates noted below:

EXHIBIT 1

San Rafael Planning Commission History of Tenure and Chairpersonship

Commissioner	First Appointed to Commission	Years Served as Chairperson	Years Served as Vice Chair
Mark Lubamersky	10/2012	Chair 2016	Vice Chair 2015
Aldo Mercado	7/2018	None	None
Berenice Davidson	6/2015	Chair 2017 (part) Chair 2018	Vice Chair 2017 (part)
Shingai Samudzi	7/2019	None	None
Barrett Schaefer	8/2012	Chair 2015	Vice Chair 2014
Sarah Loughran	11/2016	Chair 2019	Vice Chair 2018
Jeff Schoppert	7/2017	None	Vice Chair 2019

PLANNING COMMISSION RULES AND PROCEDURES

CITY OF SAN RAFAEL

Revisions Adopted at Annual Planning Commission Meeting of January 914, 20182020

I. Organization and Officers

A. Organization

1. The Planning Commission shall consist of seven regular members appointed by the Mayor with the approval of the City Council and shall be organized and exercise such powers as prescribed by the City Charter and by the San Rafael Municipal Code (City Code).
2. The term of the Commission members is four years with a staggered expiration schedule.
3. Vacancies on the Commission for other than expiration will be filled by appointment for the un-expired portion of the term.
4. If any Commissioner should have three consecutive, unexplained absences from regular meetings of the Planning Commission as shown in the roll call of the official minutes, the Chair may recommend to the City Council that the seat be relinquished.
5. If any Commissioner wishes to request a leave of absence for three to six consecutive meetings, the request shall be made to and approved by the Chair. A request for a leave of absence for more than six consecutive meetings shall be made to and approved by the City Council.

B. Officers

1. Selection

- a. A Chair and Vice-Chair shall be elected from among the Commission's membership at the Annual Meeting held the first meeting of the calendar year, to serve for a one year period. It is intended that the Chair and Vice-Chair be rotated among the Commissioners based on tenure, as defined by total years of service. In the event the years of service are identical, tenure will be determined in alphabetical order. It is the general rule that a Commissioner shall not serve as Chair more than once in seven consecutive years. However, in the event that: 1) a position is vacated; 2) a Commissioner is not interested in serving as an officer; or 3) there is limited tenure among the other Commissioners, then a Commissioner can be appointed as an officer more than once in seven years.
- b. The Vice-Chair shall serve as Chair in the following year.

- c. The Chair and Vice-Chair may not succeed themselves. However, in the event that the current Chair or Vice-Chair has served less than a year, the Commission may choose to re-elect her/him for an additional term.
- d. The Vice-Chair shall succeed the Chair if he/she vacates the office, and shall serve the un-expired term of the Chair. The Commission shall elect a new Vice-Chair to serve the un-expired term of that office. Selection shall be based on seniority.
- e. In the absence of the Chair and Vice-Chair, the member of the Commission with the longest tenure, as defined by total years of service, shall preside over the meeting. In the event that the years of service are identical, seniority will be determined by alphabetical order.

2. Responsibilities

The responsibilities and powers of the officers of the Planning Commission shall be as follows:

a. Chair

- Preside at all meetings of the Commission.
- Call special meetings of the Commission in accordance with legal requirements and the Rules of Procedure.
- Sign documents of the Commission.
- See that all actions of the Commission are properly taken.
- Assist staff in determining agenda items.
- The Chair shall be an ex officio member of all committees with voice but not vote.

b. Vice-Chair

During the absence, disability or disqualification of the Chair, the Vice-Chair shall exercise or perform all the duties and be subject to all the responsibilities of the Chair.

C. Duties and Powers

1. The Planning Commission shall have the power to recommend to the City Council, after conducting a public hearing, the adoption, the amendment or the repeal of a General Plan, a Neighborhood or Specific Plan, the Zoning Ordinance of the City Code, or a site-specific master plan for a Planned Development (PD) District, or any part thereof, for the physical development of the City.
2. The Planning Commission shall exercise such functions with respect to environmental review, land subdivisions, land use and planning, design review, and zoning, as may be prescribed by City Code, City resolution, and State law.
3. The Commission shall advise the City Council on those matters falling within its charged responsibilities in a manner reflecting concern for the overall development and environment of the City as a setting for human activities.

D. Rules of Order

Except as otherwise provided in these Rules of Procedure, "Roberts Rules of Order, Newly Revised" shall be used as a guide to the conduct of the meetings of the Planning Commission, provided, however, that a failure of the Commission to conform to said rules of order shall not, in any instance, be deemed to invalidate the action taken.

II. **Meetings**

A. Public Meetings

All meetings shall be held in full compliance with the provisions of state law, ordinances of the City and these Rules of Procedure.

B. Regular Meetings

1. Regular meetings shall be held on the second and fourth Tuesdays following the first Monday in each month, at 7:00 p.m. in the Council Chambers of the City Hall, unless otherwise determined by the Commission. All regular meetings must be held within the city limits of San Rafael.
2. Whenever a regular meeting falls on a public holiday, no regular meeting shall be held on that day. Such regular meeting may be rescheduled to another business day, or canceled by motion adopted by the Planning Commission. All meetings must be held within the city limits of San Rafael.
3. A meeting of the Commission may be canceled by the Chair for lack of a quorum, no pending business, or any other valid reason. Such cancellation may be made at any time prior to the scheduled meeting. All efforts shall be made by the Community Development Department staff to notify those involved at the earliest possible time. Prior to the scheduled meeting, the Community Development staff shall post a cancellation notice on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

4. A quorum shall not be required to convene a meeting for presentation of information items only where no action by the Commission will be required.

C. Adjourned Meetings

In the event it is the wish of the Planning Commission to adjourn its meeting to a certain hour on another day, a specified date, time, and place must be set by a majority vote of the Commissioners present, prior to the regular motion to adjourn.

D. Special Meetings

Special meetings of the Planning Commission may be held at any time upon the call of the Chair or by a majority of the voting members of the Commission or upon

request of the City Council following at least 24 hours notice to each member of the Commission and to the press. The time and place of the special meeting shall be determined by the convening authority. At least 24 hours prior to the scheduled special meeting, the Community Development staff shall post a notice of the meeting on the City of San Rafael public hearing board, the City website and at the prescribed location of the meeting.

E. Annual Meeting

The Annual Meeting of the Planning Commission will be held at the first meeting of the calendar year. The meeting will be devoted to the election of a Chair and Vice-Chair for the ensuing year and any other business scheduled by the Commission.

F. Study Sessions/Workshops/Informational Presentations

1. The Commission may be convened as a whole or as a committee of the whole in the same manner as prescribed for the calling of a special meeting for the purpose of holding a study session, provided that no official action shall be taken and no quorum shall be required.
2. Such meetings shall be open to the public.

G. Notification

Public Hearings and Discussion Items - Notice of the time, place/ items to be considered and action pending shall be given in accordance with the requirements of the City Code and State Law.

H. Agenda

1. An agenda for each meeting of the Commission shall be prepared by the Community Development Director or staff in consultation with the Chair.
2. A staff report shall be prepared for each item and distributed to the Planning Commission and made available to the public a minimum of 72 hours prior to a regular meeting.
3. A copy of the agenda shall be posted in City Hall 72 hours before a regular meeting.
4. Items not appearing on the agenda cannot be acted upon or discussed by the Commission. However, the Commission may take action under the following circumstances:
 - a. If the Commission finds, by majority vote, that an emergency situation must be addressed. An "emergency situation" is limited to work stoppages and crippling disasters;
 - b. If by a two-thirds vote (or a unanimous vote if two-thirds of the members are not present), there is a need to take immediate action and the need for action came to the attention of the Commission and staff after the agenda was posted.

Prior to discussing such items, the Commission shall publicly identify the item and shall provide the public an opportunity to provide comment on the item.

5. Members of the public may address the Commission on any agenda item, and may, at the beginning of the meeting, address the Commission on any issue that is not listed on the agenda, provided that the issue is within the jurisdiction and powers of the Planning Commission.

I. Order of Meetings

1. The Order of business shall be as follows:

- a. The Chair shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
- b. The Chair shall lead a pledge of allegiance.
- c. Members present and absent shall be recorded.
- d. The order of the agenda shall be approved as submitted or revised by a majority vote of the Commissioners present.
- e. The public shall be advised of the procedures to be followed in the meeting including the protocol and time frames for public comment.
- f. Any member of the audience may comment on any matter which is not listed on the agenda.
- g. The minutes of any preceding meeting shall be submitted for review and approval by a majority vote of the Commissioners present at that preceding meeting.
- h. The Commission shall then hear and act upon those proposals scheduled for consideration or public hearing.
- i. Director's Report.
- j. Commission Communications.
- k. Adjournment.

2. Presentation or Hearing of Proposals

The following shall be the order of procedure for hearings/discussion items concerning planning and zoning matters:

- a. The Chair shall announce the subject of the public hearing/discussion item, as noticed.
- b. If a request is made for continuance, a motion may be made and voted upon to continue the public hearing to a definite time and date (noticing not required) or a time and date to be determined (re-noticing required).
- c. Order of Speaking.

The order of speaking shall be as follows:

1. The Chair shall call for commissioners to make ex parte disclosures and potential conflict of interest disclosures with respect to the proposed project
2. Staff provides a report on the project and summarizes its compliance with San Rafael's General Plan, compliance with State laws and the City Code, the status of environmental review, and the staff recommendation for action(s) by the Commission.
23. The public hearing is opened.
34. The applicant makes a presentation to the Commission.
45. The public speaks to the Commission.
56. The Commission may ask questions or obtain facts or clarification from staff, the applicant or the public after each segment of the agenda.
67. The public hearing is closed.
78. The matter is returned to the Commission for discussion and action.

d. Rules of Testimony

The rules of testimony shall be as follows:

1. Upon opening the public hearing, the Chair shall invite the public to speak by inviting each speaker (one-at-a-time) to approach the podium. On large or controversial projects where many people wish to provide public testimony, the Chair may request that speaker cards be filled-out and submitted.
2. Persons presenting testimony to the Commission are requested to identify themselves by name and place of residence.
3. Persons presenting testimony to the Commission shall be limited to three (3) minutes for their presentation. An extension of this time limit may be granted at the Chair's discretion.
4. If there are numerous people in the audience who wish to participate on the issue and it is known that all represent the same opinion, a spokesperson should be selected to speak for the entire group. At the Chair's discretion, the spokesperson may be granted additional time beyond the three (3) minute limit for his or her presentation.
5. To avoid unnecessary repetitive evidence, the Chair may limit the number of speakers or the time on a particular issue.
6. Irrelevant, defamatory, or disruptive comments will be ruled out of order.
7. No person shall address the Commission without first securing the permission of the Chair.
8. All comments shall be addressed to the Commission. All questions shall be made or directed through the Chair.

e. Applicant Presentations

Applicant presentations shall comply with the guidelines developed by the Planning Commission. Applicants shall be limited to a maximum of ten (10) minutes for their presentation, inclusive of all members of the applicant's team (if applicable). An extension of this time limit may be granted at the Chair's discretion.

J. Motions

1. A motion to adjourn shall always be in order except during roll call.
2. The Chair of the Commission, or other presiding officer, may make and second motions and debate from the Chair subject only to such limitations of debate as are imposed on all members of the Commission.

K. Voting

1. Voting Requirements

- a. A quorum shall consist of four members.
- b. The affirmative vote of a majority of the quorum present is necessary for the Commission to take action on all matters other than those listed under Section c below.
- c. Certain votes of the Commission require a majority vote of the entire Commission (4 votes) to carry. These are:
 - Adoption or amendment of a General Plan or any part thereof.
 - Adoption or amendment to any Neighborhood or Specific Plan or any part thereof.
 - Adoption or amendment to the Zoning Ordinance of the City Code or amendment thereto.
 - Adoption or amendment to a site-specific master plan for a Planned Development (PD) District.
 - Other actions as required under federal or state law. (These will be dealt with as they arise.)
- d. When a member of the Commission abstains from voting on any matter before it because of a potential conflict of interest, because the Commissioner does not believe he/she can be objective, or because the Commissioner was absent at any previous hearing on an item, said vote shall not constitute nor be considered as either a vote in favor of or opposition to the matter being considered. Abstentions shall not be allowed for any other reason.
- e. A tie vote shall be recorded as a failure of action to pass. A tie vote on a motion defeats the motion.

2. Roll Call Vote

Any Commissioner, the applicant or an appellant can request a roll call vote.

3. Recording of Votes

The minutes of the Commission's proceedings shall show the vote of each member, including whether they were absent, abstained from voting, or failed to vote on a matter considered.

4. Disqualification from Voting

A member shall disqualify himself/herself from voting in accordance with the State Political Reform Act and other applicable state law. When a member is disqualified, he/she shall state, prior to the considerations of such matter by the Commission that the member is disqualifying himself/herself due to a possible conflict of interest and shall then leave the voting area.

III. Review and Amendments Procedure

- A. These Rules of Procedure shall be reviewed at the Annual Meeting of each year. On an ad hoc basis, the chair may appoint a subcommittee to review these rules prior to the meeting. The review subcommittee shall present their recommendations for amending or not amending these rules. Minor changes may be brought forward by staff for the Commission's consideration.
- B. In addition, these Rules of Procedure may be amended at any meeting of the Planning Commission by a majority of the membership of the Commission provided that notice of the proposed amendment is received by each Commissioner not less than 5 days prior to said meeting.

(Approved May 9, 2000. Revised February 26, 2002, December 14, 2004, May 29, 2007, January 27, 2009 and January 9, 2018)

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**- DESIGN REVIEW BOARD MEETINGS –
2020 PLANNING COMMISON LIAISON**

Months	Commission Liaison
January 7 & 22 (Wednesday) February 4 & 19 (Wednesday)	Lubemersky
March 3 & 7 April 7 & 21	Davidson
May 5 & 19 June 2 & 16	
July 7 & 21 August 4 & 18	
September 9 (Wednesday) & 22 October 6 & 20	
November 4 (Wednesday) & 17 December 8 & 22	Loughran

Notes:

- Chair does not serve as liaison
- All DRB meetings are the 1st and 3rd Tuesday of each month, starting with the first full week (a week includes a Monday).
- All dates above are Tuesday's except as noted. If there is a holiday on Monday, the DRB meeting gets pushed to Wednesday for that week.



Let's *Ex Parte!* The Limits and Disclosure Requirements of *Ex Parte* Contacts in the Public Hearing Context

Thursday, October 6, 2016 General Session; 2:45 – 4:00 p.m.

Ariel Pierre Calonne, City Attorney, Santa Barbara

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**Let's Ex Parte! The Limits and Disclosure
Requirements of Ex Parte Communications
in the Public Hearing Context**

Ariel Pierre Calonne
City Attorney
City of Santa Barbara

League of California Cities
Annual Conference
October 2016 Long Beach

This paper examines California law governing whether, when, and how city decisionmakers must refrain from or disclose *ex parte* communications.

INTRODUCTION

Ex parte is a Latin phrase that literally means “from one party.”¹ Generally speaking, an *ex parte* communication is any material or substantive oral or written communication with a decisionmaker that is relevant to the merits of an adjudicatory proceeding, and which takes place outside of a noticed proceeding open to all parties to the matter.²

Ex parte communications to a judicial officer or quasi-judicial decisionmaker raise a number of serious legal concerns. As a result, *ex parte* communications are restricted, and even prohibited, in some circumstances.

The doctrinal foundation for restricting *ex parte* communications rests upon fundamental fairness concerns flowing from the Magna Carta,³ English common law⁴, American common law requiring “fair procedures,”⁵ and the Fifth and Fourteenth Amendments which provide that no person shall be “deprived of life,

¹ In the legal context, *ex parte* means “on one side only; by or for one party; done for, in behalf of, or on the application of one party only.” (Black’s Law Dict. (6th ed. 1990) p. 76, col. 1.)

² See, e.g., Gov. Code, § 11430.10 [California Administrative Procedures Act]; 12 C.F.R. § 263.9 [Federal Reserve Uniform Rules of Practice and Procedure].

³ *Duncan v. State of La.* (1968) 391 U.S. 145, 169 (Conc. Opn. Of Black, J.) [“The origin of the Due Process Clause is Chapter 39 of Magna Carta which declares that “No free man shall be taken, outlawed, banished, or in any way destroyed, nor will We proceed against or prosecute him, except by the lawful judgment of his peers and by the law of the land.””]

⁴ “. . . in determining what due process of law is, under the Fifth or Fourteenth Amendment, the court must look to those settled usages and modes of proceeding existing in the common and statute law of England before the emigration of our ancestors, which were shown not to have been unsuited to their civil and political condition by having been acted on by them after the settlement of this country.” *Tumey v. State of Ohio* (1927) 273 U.S. 510, 523.

⁵ *Pinsker v. Pacific Coast Society of Orthodontists* (1974) 12 Cal.3d 541, 555

liberty, or property, without due process of law.”⁶ And, “A fair trial in a fair tribunal is a basic requirement of due process.”⁷ The law relating to *ex parte* communications has grown from concerns about fundamental fairness.

Two precepts underlie *ex parte* contact fairness and due process considerations: The need for judicial impartiality and the truth-seeking benefits of an adversarial system.

Judicial impartiality is a cornerstone of American justice. In *Tumey v. State of Ohio* (1927) 273 U.S. 510, the United States Supreme Court had no trouble finding a due process violation when an Ohio criminal statute authorized a mayor to hear certain cases in which he or she had a direct pecuniary interest due to a local ordinance that compensated the mayor with fees collected from convicted defendants. While there was no evidence of actual bias in *Tumey*, the Court concluded that any “. . . procedure which would offer a possible temptation to the average man as a judge to forget the burden of proof required to convict . . .” denies due process because the judge’s impartiality is put into question.⁸ Certainly *ex parte* contacts present a “possible temptation” that might impugn a decisionmaker’s impartiality.⁹

Adversarial systems work to ensure discovery of the truth. The United States Supreme Court points out that: “[t]he system assumes that adversarial testing will

⁶ U.S. Const., 5th and 14th Amends.; see also Cal. Const., art. I, § 7 [state clause’s prescriptions as substantially overlapping those of the federal Constitution] *Today’s Fresh Start, Inc. v. Los Angeles County Office of Educ.* (2013) 57 Cal.4th 197, 212; Code Civ. Proc., § 1094.5 [*Vollstedt v. City of Stockton* (1990) 220 Cal.App.3d 265, 273.

⁷ *In re Murchison* (1955) 349 U.S. 133, 136; *Withrow v. Larkin* (1975) 421 U.S. 35, 46; *Howitt v. Superior Court* (1992) 3 Cal.App.4th 1575, 1581. In this context, we are referring to procedural due process. (See *Mathews v. Eldridge* (1976) 424 U.S. 319.

⁸ *Id.*, at p. 532.

⁹ See *Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2006) 40 Cal.4th 1, 5; “One fairness principle directs that in adjudicative matters, one adversary should not be permitted to bend the ear of the ultimate decision maker or the decision maker’s advisors in private.”

ultimately advance the public interest in truth and fairness.”¹⁰ Because *ex parte* communications are not recorded, they cannot be rebutted by the non-present party or given adequate appellate review.¹¹ The Third Circuit Court of Appeals applied this principle to conclude that:

“ . . . *ex parte* communications run contrary to our adversarial trial system. The adversary process plays an indispensable role in our system of justice because a debate between adversaries is often essential to the truth-seeking function of trials.”¹²

In California, earlier cases echoed the adversarial truth-seeking interest behind controlling *ex parte* communications in administrative proceedings:

“Administrative tribunals exercising quasi judicial powers which are required to make a determination after a hearing cannot act on their own information. Nothing may be treated as evidence which has not been introduced as such, inasmuch as a hearing requires that the party be apprised of the evidence against him in order that he may refute, test and explain it.”¹³

The more modern California view does not compel a purely adversarial model for administrative decision making, and hence casts some doubt on the continuing value of the “truth-seeking” rationale for controlling *ex parte* communications:

“ . . . these decisions and numerous others stand for the proposition that the pure adversary model is not entitled to constitutionally enshrined exclusivity as the means for resolving disputes in ‘[t]he incredible variety of administrative mechanisms [utilized] in this country....’ The mere fact that the decision-maker or its staff is a more active participant in the factfinding process—similar to the

¹⁰ *Polk County v. Dodson* (1981) 454 U.S. 312, 318.

¹¹ *In re Kensington Intern. Ltd.* (3d Cir. 2004) 368 F.3d 289, 310.

¹² *Ibid.*

¹³ *La Prade v. Department of Water and Power of City of Los Angeles* (1945) 27 Cal.2d 47, 51–52.

judge in European civil law systems—will not render an administrative procedure unconstitutional.”¹⁴

Indeed, legislative bodies now have considerable constitutional leeway to craft alternative decisionmaking systems which may not be adversarial:

““[l]egislatures and agencies have significant comparative advantages over courts in identifying and measuring the many costs and benefits of alternative decisionmaking procedures. Thus, while it is imperative that courts retain the power to compel agencies to use decisionmaking procedures that provide a constitutionally adequate level of protection ..., judges should be cautious in exercising that power. In the vast bulk of circumstances, the procedures chosen by the legislature or by the agency are likely to be based on application of a *Mathews*-type cost-benefit test by an institution positioned better than a court to identify and quantify social costs and benefits.””¹⁵

So, while some courts focus their *ex parte* due process concerns on the need for confrontation and rebuttal by the adverse parties, judicial impartiality is a more persistent rationale, particularly in non-adversarial systems.

Finally, the California Supreme Court recently summarized the basic requirements of due process in California administrative decisionmaking, again focusing upon the need for impartiality:

“The essence of due process is the requirement that “a person in jeopardy of serious loss [be given] notice of the case against him and opportunity to meet it.” ‘The opportunity to be heard must be afforded ‘at a meaningful time and in a meaningful manner.’ To ensure that the opportunity is meaningful, the United States Supreme Court and this court have identified some aspects of due

¹⁴ *Howitt v. Superior Court* (1992) 3 Cal.App.4th 1575, 1581 [citing *Withrow v. Larkin* (1975) 421 U.S. 35].

¹⁵ *Today's Fresh Start, Inc. v. Los Angeles County Office of Educ.* (2013) 57 Cal.4th 197, 230; quoting *Mohilef v. Janovici* (1996) 51 Cal.App.4th 267, 288 and referring to the seminal procedural due process analysis in *Mathews v. Eldridge* (1976) 424 U.S. 319, 348.

process as irreducible minimums. For example, whenever 'due process requires a hearing, the adjudicator must be impartial.'

Beyond these broad outlines, however, the precise dictates of due process are flexible and vary according to context."¹⁶

In sum, the simple human need for fairness, reflected in western jurisprudence since at least 1215 when it was pronounced in the *Magna Carta*, underlies the legal concerns about *ex parte* communications during administrative decisionmaking processes. Fairness certainly requires an impartial decisionmaker, and often the appearance of impartiality can become as important a factor in the legal review of fairness as actual impartiality. Fairness may also require the opportunity for adversarial examination of evidence in some, if not most, administrative decisionmaking systems.

CALIFORNIA LAW ON EX PARTE COMMUNICATIONS

In 1945, the California Supreme Court determined that due process does not allow using evidence gathered *ex parte* in an administrative hearing. In *La Prade v. Department of Water and Power of City of Los Angeles* (1945) 27 Cal.2d 47, the Court considered a civil service matter in which an employee was discharged upon the basis of an investigative report which was offered into evidence after the hearing. The divided 4-3 Court held:

"Administrative tribunals exercising quasi judicial powers which are required to make a determination after a hearing cannot act on their own information. Nothing may be treated as evidence which has not been introduced as such, inasmuch as a hearing requires that the party be apprised of the evidence against him in order that he may refute, test and explain it. And the action of such a tribunal based upon the report of an investigator, assuming it is competent evidence, when forming the basis for the tribunal's determination, is a denial of a hearing, unless it is introduced into evidence and the accused is given an opportunity to cross-examine the maker thereof and refute it."^{17 18}

¹⁶ *Id.*, at p. 212.

¹⁷ *Id.*, at pp. 51-52; *La Prade* relied heavily upon *Morgan v. U.S.* (1936) 298 U.S. 468, 480 which discussed a federal livestock ratemaking statute: "That duty is

By 1950, a unanimous California Supreme Court squarely addressed the problem of individual *ex parte* contacts by decisionmakers. In *English v. City of Long Beach* (1950) 35 Cal.2d 155, the Court considered a Long Beach police officer who had been terminated due to a disability. Members of the civil service board:

“ . . . took evidence outside the hearing and outside the presence of English or his attorney. Some of them talked to one of the examining doctors, and one member questioned his personal physician concerning the relation of English's asserted disability to the performance of the duties of his position. The information thus received was imparted to other board members, and was considered and relied upon by them in arriving at their decision.”¹⁹

The Court noted that: “[t]he principal question is whether English was deprived of a fair trial.”²⁰ And:

“The action of such an administrative board exercising adjudicatory functions when based upon information of which the parties were not apprised and which they had no opportunity to controvert amounts to a denial of a hearing.” . . .

A contrary conclusion would be tantamount to requiring a hearing in form but not in substance, for the right of a hearing before an administrative tribunal would be meaningless if the tribunal were permitted to base its termination upon information received without the knowledge of the parties. A hearing requires that the party be apprised of the evidence against him so that he may have an opportunity to refute, test, and explain it, and the requirement of a

widely different from ordinary executive action. It is a duty which carries with it fundamental procedural requirements. There must be a full hearing. There must be evidence adequate to support pertinent and necessary findings of fact. Nothing can be treated as evidence which is not introduced as such.”

¹⁸ Despite *Morgan* and its progeny, Congress did not restrict *ex parte* administrative communications in formal rulemaking and administrative adjudications until 1976. (*Due Process and Ex Parte Contacts in Informal Rulemaking* (1979) 89 Yale L.J. 194, 197.)

¹⁹ *Id.*, at p. 157.

²⁰ *Id.*, at p. 158.

hearing necessarily contemplates a decision in light of the evidence there introduced.”²¹

Again, in a case involving a city manager’s decision to demote a city employee based in part upon evidence received *ex parte*, the Court of Appeal emphasized that:

“The fact that Personnel Director Fong may have presented the City Manager with substantial evidence supporting his decision not to follow the recommendations of the Commission did not cure the error caused by the Commission’s failure to transmit a statement of facts to the City Manager. Rather it led to further abuse of appellant’s right to a fair hearing. A decision maker such as the City Manager, who is required by city ordinance to make a determination after a requested hearing cannot act upon his own information, and nothing can be considered as evidence that was not introduced at a hearing of which petitioner had notice or at which he was present.”²²

On the other hand, it is also clear that some kinds of *ex parte* evidence do not raise due process concerns. In 1957, the Court of Appeal in *Flagstad v. City of San Mateo* (1957) 156 Cal.App.2d 138 held that *ex parte* evidence which is disclosed before a hearing does not violate due process:

“Plaintiff complains that defendants rely upon information acquired by the council members other than at the hearing. . . . Here the mayor stated at the outset of the hearing that the councilmen had ‘had a look’ at the property. Members of the council asked questions and expressed views at the public hearing which quite fully revealed their investigation. There was no concealment. Those protesting the variance were free to challenge any views so expressed, and took frequent advantage of this opportunity.”²³

And, more recently, the Court of Appeal has held that *ex parte* information is evidentiary only if it is “considered by . . . [the decisionmaker] . . . for its bearing

²¹ *Id.*, at p. 158-59.

²² *Vollstedt v. City of Stockton* (1990) 220 Cal.App.3d 265, 274–75.

²³ *Id.*, at p. 141.

on the issues resolved by the findings in his proposed decision.”²⁴ So, non-substantive communications that do not bear on the ultimate decision are consistent with due process requirements.

Surprisingly, there is no California statutory law restricting *ex parte* communications with city decisionmakers. At the state level, the California Administrative Procedures Act expressly forbids *ex parte* communications.²⁵ Likewise, the California Coastal Act defines and requires disclosure of *ex parte* communications.²⁶ On the other hand, the Porter-Cologne Water Quality Control Act was amended in 2012 to exempt certain water board proceedings from the *ex parte* communication restrictions of the California Administrative Procedures Act.²⁷ Many other state agencies have specialized *ex parte* communication rules.²⁸ These state statutes provide some value in determining due process minima.

WHETHER, WHEN, AND HOW TO ADDRESS EX PARTE COMMUNICATIONS

Due to the absence of statutory guidance, we must synthesize the case law to determine whether, when, and how to address *ex parte* communications. Mindful that fundamental fairness is our guide, and that *Mathews v. Eldridge* (1976) 424 U.S. 319 remains vital in providing a procedural due process framework,²⁹ several relatively clear principles emerge.

²⁴ *Mathew Zaheri Corp. v. New Motor Vehicle Bd.* (1997) 55 Cal.App.4th 1305, 1314.

²⁵ “While the proceeding is pending there shall be no communication, direct or indirect, regarding any issue in the proceeding, to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication.” (Gov. Code, § 11430.10(a); Gov. Code, § 11425.10.)

²⁶ Pub. Resources Code, §§ 30322 and 30324.

²⁷ Wat. Code, § 13287 (Stats. 2012, ch. 551.)

²⁸ See, e.g., Pub. Resources Code, § 663.2 [State Mining and Geology Board]; Bus. & Prof. Code, § 19872 [Gambling Control Commission].

²⁹ “. . . identification of the specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be

1. Procedural Due Process Relates Only to Adjudicatory Proceedings.

Ex parte communications are a concern only in adjudicatory or quasi-judicial decisionmaking matters, as opposed to purely legislative proceedings. While many factors go into determining whether a matter is quasi-judicial, the typical characteristics are three-fold: 1) Does the matter require advance notice and a hearing; 2) must the decision be predicated upon specific findings of fact; 3) does the decision apply existing law to specific facts to make an individualized determination of a specific person's rights or interests in life, liberty or property.^{30 31} It is a good practice to identify quasi-judicial matters on meeting agendas so that the public, parties and decisionmakers are aware of due process concerns that might limit *ex parte* communications.

2. Ex Parte Communication is Evidence-Gathering That Takes Place Outside the Formal Proceedings.

Ex parte communications include oral and written information, but can also include any other sensory communication, such as visual or auditory information obtained during a site visit.³²

3. Ex Parte Communications Must Be Substantive and Relevant to the Matter in Order to Impact Due Process Rights.

Mere casual or non-substantive communications do not violate the due process rights of non-present parties to a quasi-judicial matter.³³ This limitation is

affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge* (1976) 424 U.S. 319, 335.

³⁰ See *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506.

³¹ See *Franchise Tax Bd. v. Superior Court in and for Sacramento County* (1950) 36 Cal.2d 538, 549 ["There is no constitutional requirement for any hearing in a quasi-legislative proceeding."]

³² *Flagstad v. City of San Mateo* (1957) 156 Cal.App.2d 138.

³³ *Mathew Zaheri Corp. v. New Motor Vehicle Bd.* (1997) 55 Cal.App.4th 1305.

important to local elected officials because they are often expected to be available so that concerns or complaints may be expressed by their constituents. Thus, the mere expression of support or opposition to a particular decision does not raise due process concerns when it is not accompanied by substantial factual information that influences the decisionmaker's analyses or conclusions.

4. Substantive *Ex Parte* Communications Which are Disclosed Prior to a Quasi-Judicial Hearing Do Not Raise Due Process Concerns.

California case law is clear that pre-hearing disclosure of *ex parte* communications adequately protects the due process interests of the non-present parties to the matter.³⁴ The disclosure should be complete, detailed and as early in the process as is reasonable. Some agencies require written disclosure.³⁵

5. *Ex Parte* Communications After a Quasi-Judicial Hearing Must Be Prohibited If the Decision is Not Final.

A corollary to the due process protection provided by pre-hearing disclosure of *ex parte* communications is that there must be no *ex parte* communications during the interstitial period between closure of a hearing and a final decision. This arises most often when a city decisionmaker closes a quasi-judicial hearing and directs the preparation of written findings by staff. "Lobbying" by parties to the matter or other persons must be rejected. Many cities have differing approaches to *ex parte* communications that arise as a result of public testimony rights under the Brown Act.³⁶ A simple admonition on the record advising the decisionmakers not to consider Brown Act-required public comment should be a sufficient balance between the due process and First Amendment interests at stake.

³⁴ *Flagstad v. City of San Mateo* (1957) 156 Cal.App.2d 138.

³⁵ The California Coastal Commission, for example, requires use of "standard disclosure forms." (Pub. Resources Code, § 30324.)

³⁶ Gov. Code, 54954.3. See also, Gov. Code, § 54954.2(a)(2) ["No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3."]

EXAMPLES OF CITY COUNCIL EX PARTE CONTACT RULES

Santa Barbara City Council Procedures (2015)

4.14.4. Identification of Quasi-Judicial Matters on the Agenda. The City Administrator/City Clerk, in conjunction with the City Attorney, will identify agenda items involving quasi-judicial decisions on the Council agenda. This identification is intended to inform the Council, interested parties, and the public that this policy will apply to the item, but failure to identify an item shall not be cause for a continuance.

4.14.5. Policy to Avoid Ex Parte Contacts. Ex parte contacts are substantive oral or individual written communications concerning quasi-judicial matters that occur outside of noticed public hearings. City Councilmembers should avoid and discourage ex parte contacts if at all possible.

4.14.6. Disclosure of Ex Parte Contacts. If an ex parte contact does occur (which it might because the public has a hard time understanding that on quasi-judicial matters the Council's decision making is confined to the hearing), the Councilmember must disclose the contact and the substance of the information communicated on the record at the start of the public hearing. This disclosure allows people who may have a different point of view or contrary evidence to make their points during the hearing in response to the information you may have obtained through the ex parte contact. The disclosure might go something like this: "I was approached by the appellant last week and they told me that neighborhood traffic is much greater than the City's baseline assumptions."

4.14.7. Ex Parte Contacts After the Hearing. Ex parte contacts after a public hearing is closed and before a final decision is rendered are prohibited because there is no opportunity for rebuttal.

Berkeley Rules of Procedure and Order (2016)

Following any staff presentation, each member of the City Council shall verbally disclose all ex parte contacts concerning the subject of the hearing. Members shall also submit a report of such contacts in writing prior to the commencement of the hearing. Such reports shall include a brief statement describing the name, date, place, and content of the contact. Written reports shall be available for public review in the office of the City Clerk prior to the meeting and placed in a file available for public viewing at the meeting.

Berkeley Land Use Resolution (2004)

3. Council members and Commissioners may receive information relevant to the land use decision by contacts with the parties, the public or staff and are not confined to reading the record or hearing presentations at public hearings.

4. Where information of a specific nature is gathered by a member of the City Council or a board or commission, through contacts outside the record, and the information is not already in the record, the member shall, to the extent feasible, keep contemporaneous notes of the substance of the contact and shall disclose the contact and its substance on the record prior to the commencement of the hearing to which such contact relates. Where the information is received during the pendency of a hearing the matter shall be disclosed prior to completion of the hearing and the parties and public shall have an opportunity to respond if the matter is substantially new information.

5. Where such contacts were made and information gathered prior to a pending decision by the Council or any decision making body whether or not to grant a hearing, the substance of the information shall be reported to the secretary of the relevant body as soon as it is made. The secretary shall maintain a file on such disclosed contacts for review by members of the public.

Palo Alto City Council Procedures and Protocols Handbook (2013)

2) Restrictions on Council Communications Outside of Quasi-Judicial and Planned Community Zone Hearings

It is the policy of the Council to discourage the gathering and submission of information by Council Members outside of any noticed public meeting, prior to final recommendations by the Architectural Review Board or Planning &

Transportation Commission. The following procedural guidelines are intended to implement this policy, but shall not be construed to create any remedy or right of action.

3) Identification of Quasi-Judicial/Planned Community Matters

The City Attorney, in conjunction with the City Clerk and City Manager, will identify agenda items involving quasi-judicial/planned community decisions on both the tentative and regular Council agendas. This identification is intended to inform the Council, interested parties, and the public that this policy will apply to the item.

4) Council to Track Contacts

Council Members will use their best efforts to track contacts pertaining to such identified quasi-judicial/planned community decision items. Contacts include conversations, meetings, site visits, mailings, or presentations during which substantial factual information about the item is gathered by or submitted to the Council Member.

5) Disclosure

When the item is presented to the Council for hearing, Council Members will disclose any contacts which have significantly influenced their preliminary views or opinions about the item. The disclosure may be oral or written, and should explain the substance of the contact so that other Council Members, interested parties, and the public will have an opportunity to become apprised of the factors influencing the Council's decision and to attempt to controvert or rebut any such factor during the hearing. Disclosure alone will not be deemed sufficient basis for a request to continue the item. A contact or the disclosure of a contact shall not be deemed grounds for disqualification of a Council Member from participation in a quasi-judicial/planned community decision unless the Council Member determines that the nature of the contact is such that it is not possible for the Council Member to reach an impartial decision on the item.

6) No Contacts after Hearings

Following closure of the hearing, and prior to a final decision, Council Members will refrain from any contacts pertaining to the item, other than clarifying questions directed to City staff.

Santa Monica Rules of Conduct for City Council Meetings

RULE 14. DISCLOSURE FOR QUASI JUDICIAL MATTERS.

On quasi-judicial matters, Councilmembers shall verbally disclose off the record contacts relating to the item, after the item is called and before Council consideration of the matter. Disclosure shall include the identity of an individual(s) with whom the Councilmember had contact, and the nature of the contact.

Mountain View City Council Code of Conduct (2015)

4.7 Quasi-Judicial Role/Ex Parte Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to ex parte contacts applies.

4.7.1 Ex Parte Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

Thousand Oaks Municipal Code (1984)

Sec. 1-10.08. Ex parte communications.

No official or employee shall encourage, make or accept any ex parte or other unilateral application or communication that excludes the interests of other parties in a matter under consideration when such application or communication is designed to influence the official decision or conduct of the official or other officials, employees or agencies in order to obtain a more favored treatment or special consideration to advance the personal or private interests of him/herself or others. The purpose of this provision is to guarantee that all interested parties to any matter shall have equal opportunity to express and represent their interests.

Any written ex parte communication received by an official or employee in matters where all interested parties should have an equal opportunity for a hearing shall be made a part of the record by the recipient.

Any oral ex parte communication received under such conditions should be written down in substance by the recipient and also be made a part of the record.

A communication concerning only the status of a pending matter shall not be regarded as an ex parte communication.

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PLANNING COMMISSION HANDBOOK

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November 2002 (Rev 01/06/14)
(650) 522-7202

Citizens should be thanked for taking on the job of a Planning Commissioner. The long hours and hard work may cause a person to wonder whether it's all worth it. **IT IS.** Planning Commissioners help to set directions for the community and make decisions that affect its residents and its future. The special role of the Planning Commission is confirmed by the authority given in state law and by local ordinance.

The job of the Planning Commissioner, in its larger sense, includes the responsibility of balancing individual rights with the public welfare; the challenge of making decisions that affect the future of the community; and the ability to analyze problems and resolve difficult situations. These may not characterize every Planning Commission meeting, but they show the scope of responsibility of a Planning Commission, and indicate the seriousness of the work that the Planning Commission undertakes.

Planning Commissions decide on land-use and development issues important to the future and well-being of the community. Planning Commissioners often are appointed without any prior training in planning or in their role as members of a public body. They must "learn the ropes" as best they can. While most Planning Commissioners learn how to do their jobs this way, and some excel, training and education can help Planning Commissioners with their job. **This Planning Commission Handbook** will help Planning Commissioners by providing information on planning and guidance on the conduct of the Planning Commission's activities. This handbook is not a formally adopted City of San Mateo document, nor does it set forth official City policy. Instead, it is intended to be a practical guide to some of the issues faced by Planning Commissioners.

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Chapter 1 - Welcome to the Planning Commission

Introduction

A person's life is almost certain to become more interesting when asked to serve on the Planning Commission. He/She attends regular meetings, special meetings, and work sessions, evaluates projects and proposals, and makes tough decisions about community development projects and policies. New terms and concepts are encountered; more knowledge is gained about activities happening around town; and a greater understanding about government and public decision-making begins to develop.

A good Planning Commission must take the future seriously. To be a good Planning Commissioner requires commitment to ensuring a promising future of the community coupled with hard work, the patience to listen, and the willingness and ability to make decisions.

A good Planning Commissioner must have some understanding of the basic topics:

- What Planning is;
- Zoning and Subdivision law;
- The California Environmental Quality Act (CEQA);
- Planning Commission procedures;
- The authority and duties of the Planning Commission;
- Legal aspects of Planning Commission conduct; and
- Standards for Planning Commission decision-making.

The purpose of this handbook is to provide this information. Although being a Planning Commissioner will always be challenging, reading this handbook will make the challenge easier and more understandable.

What is a Planning Commission?

As used in this handbook, a Planning Commission refers to a body of citizens that serve local government. The Planning Commission is an advisory group to the City Council on issues and policies related to planning and land use regulation and community development in general, although in many (most) cases, the Planning Commission has the ability to make a final decision, pending appeal to the City Council.

California Planning and Zoning Law allows cities and counties to establish Planning Commissions and provide for planning, subdivision and land use regulation. A City Council or Board of Supervisors choosing not to establish a Planning Commission would serve as the Planning Commission instead (this is a rare occurrence.)

Each city or county establishing a Planning Commission passes an ordinance that defines its duties and scope, and which may identify the number of members, their qualifications, how vacancies are filled, the frequency of regular meetings, who serves as their staff, and general operating procedures.

Planning Commission Duties

Duties usually assumed by the Planning Commission include, but are not limited to:

- Holding public hearings and meetings;
- Reviewing the General Plan;
- Reviewing and recommending zoning code regulations;
- Recommending the reclassifications of a property's zoning;
- Reviewing subdivision maps;
- Acting on variances, special use permits, site plan and architectural reviews, and other types of planning applications;
- Reviewing and recommending special studies.

The role of the Planning Commission in shaping the future of a community is extremely important. The City Council is often engaged in the issues of the day and unable to spend sufficient time studying current or planned development activities. The Planning Commission can play a key role by taking the lead in reviewing and evaluation land-use and development issues in both the short-term **and** the long-term.

Some Rules of Thumb

After a person has been on the Planning Commission for a while, they will begin to recognize "pointers", or "rules of thumb", about how the Planning Commission should conduct its business. Listed below are some "pointers" that should help to provide some guidance. They are taken from the experience of other Planning Commissions, from Planning Commission materials prepared in other states, and from other training publications.

- Develop and adopt bylaws and procedures, and stick to them.
- Have the staff develop and make available accurate and reliable information, including data and maps.
- Prepare and maintain an adequate General Plan, refer to it, and make decisions that are consistent with its policies. Also, implement the Plan and its policies.
- Annually re-examine what the Planning Commission is doing, how well it is doing it, and how to do it better.

- Meet periodically with the City Council to exchange ideas and to assess mutual objectives (normally done in joint study sessions.)
- Tell staff what is wanted and how material should be presented to the Planning Commission. Don't wait for the experts to tell the Planning Commission what to do next.
- If possible, attend some short courses on planning techniques or the latest in land-use law and expect the staff to do the same.
- Find out what other communities are doing. Sometimes it's surprising to find out how far ahead your community is in comparison.
- Lobby for good planning. If the Planning Commission doesn't, who will?
- Take time to orient new Planning Commissioners to the job. Remember how tough it is to get the hang of being new?
- Have the staff keep organized and complete files. There is no substitute for a complete record of Planning Commission action.
- Be consistent in decision-making.

Chapter 2 - Role and Activities of the Planning Commission

Introduction

Planning Commissioners put in long hours of hard work resolving complex, sometimes difficult, issues. Why would citizens want to subject themselves to long hours and hard work for little compensation and little public recognition? Probably because they are people who take an active interest in the welfare of their community and are willing to put that civic-mindedness to work. While the job can be difficult, it is also rewarding to participate in decisions and formulate ideas that will help shape the physical, social, and economic future of the community.

Purpose of the Planning Commission

The Planning Commission acts on behalf of the City Council in deciding on and recommending land-use activities and related matters. The City Council does not have time to do their job and the job of the Planning Commission as well. This is not only because their workload may be too large, but also because the job of planning is too important to leave unattended. The Planning Commission has the authority and the responsibility to play a central role in making decisions and advising the City Council in land-use concerns and development issues.

The Authority of the Planning Commission

The Planning Commission derives its authority and duties through California Government Code Section 65101 and Section 6.04 of the Charter of the City of San Mateo. That authority is further detailed in the Municipal Code Chapter 2.24 defining the composition and duties of the Planning Commission.

Duties of the Planning Commission

The duties of the Planning Commission will vary from community to community depending on factors such as support for planning on the City Council, the community's rate of growth, responsibilities prescribed by ordinance, and community attitudes about planning. The following list of duties shows the range of activities with which a Planning Commission may become involved.

Assist in the preparation of a General Plan. The General Plan, which is discussed in more detail in the next chapter, contains policy statements about community development and a map displaying intended land-use in the community. The General Plan can be the most important document the Planning Commission will prepare, since, if properly prepared and followed, it will be the blueprint for decision-making on land-use and development.

Review and Recommend Zoning Code Regulations. Zoning code regulations (as well as other means) are used to implement the General Plan. The Planning Commission is closely involved in the preparation and amendment of zoning code regulations and provides recommendations to the City Council.

Review and Recommend the Reclassification of Property. The Planning Commission reviews proposed zoning reclassifications and makes a recommendation to the City Council whether a zoning change should be granted. The City Council has the final decision, since reclassifications are approved by ordinance.

Act on Planning Applications (PA's). The Planning Commission has the authority to approve or deny planning applications which include variances, special use permits, and subdivision maps. Included with these PA's are environmental documents such as Environmental Impact Reports (EIR's) and Negative Declarations.

Hear Appeals of Zoning Administrator Decisions. The Planning Commission hears appeals of Zoning Administrator decisions. In addition, in some instances the Zoning Administrator may refer items up to the Planning Commission for review or Planning Commissioners may call up Zoning Administrator decisions for review.

Hold Public Meetings and Hearings. This may seem too obvious to mention, however, it's perhaps the most important activity the Planning Commission undertakes. Public meetings and hearings provide an opportunity for direct interaction between the Planning Commission and local residents. This gives local residents an opportunity to see the Planning Commission "in action", and gives the Planning Commission members the chance to hear first-hand about residents' concerns.

Characteristics of the ideal Planning Commission

Having the right kind of members on the Planning Commission can be critical to its success as a productive and respected group. A Planning Commission interested in its work, with a collective sense of its mission and responsibilities will fare much better than one which is disorganized and lacks a clear grasp of its public duties. A dedicated individual who understands the community and is willing to work for its well-being is the best kind of Planning Commissioner.

The ideal Planning Commission should reflect the following:

- **Balance.** Membership on the Planning Commission should attempt to reflect the diversity of the community while at the same time consisting of people who are known to be level-headed, practical, and willing to work together. The Planning Commission should not be composed of people who think alike. Nor should a Planning Commission be appointed that has individual members so opinionated that they cannot reach consensus.
- **Skills.** A Planning Commission should not be made up of just architects and engineers or business owners or builders. A range of skills is needed to provide depth and perspective in the Planning Commission's deliberations.
- **Understanding of Community.** A Planning Commissioner should have some understanding of the forces that are shaping events in the community. This would include understanding attitudes and issues about growth and development, knowing how the local economy works, and having some knowledge of community land-use and development trends.

- **Understanding the Public Process.** Planning Commissioners represent and work on behalf of the public. The interests of the public must be kept in mind in both the way that business is conducted (procedural) and in the decisions that are made (substantive). Planning Commissioners should understand that working in a public process can be frustrating and time-consuming. This is because everyone's interests – the interests of the community at large – must be heeded, and not just those of particular advocacy groups or individuals.
- **Commitment to Planning.** Planning Commissioners will not always agree on what constitutes good planning but they should all agree that planning is important.
- **Conflict of Interest.** A Planning Commissioner who frequently has to declare a conflict of interest and refrain from voting is not a fully participating member of the body. While it is more difficult in smaller towns, the City Council should try to select Planning Commissioners with little or no conflict of interest.
- **Special Interests.** A Planning Commission which is seen as being too cozy with special interest groups will lose credibility with the public and could find its decisions constantly under scrutiny or even being challenged in the courts. Public loss of confidence in the Planning Commission could result in qualified people declining to apply and a gradual deterioration in the Planning Commission's ability to do the public's work.
- **Objectivity.** This important trait is basically the ability to distinguish between fact and opinion. Planning Commissioners should be able to support decisions based on the facts, even if it disagrees with their personal opinion.
- **Sufficient Free Time.** A Planning Commissioner should have the time to, not only attend meetings and work sessions, but also to prepare for the meetings beforehand. No community is well served by a Planning Commissioner who is unprepared and tries to "wing it" at public hearings. Planning Commissioners should also have time to attend training sessions during the year.

The Planning Commission's Relationship with Staff and Elected Officials

Relationship to the City Council. The most important aspect of the relationship between the Planning Commission and the City Council is the Planning Commission's advisory role for certain types of approvals, such as General Plan amendments, zoning reclassifications, zoning code amendments, and planned developments. Advisory means that the Planning Commission makes recommendations to the City Council and the City Council has the final say.

For example, the Planning Commission might recommend a change in the zoning code but it is the City Council that takes final action on the recommendation. The City Council has the authority to make changes from the Planning Commission's recommendation. A Planning Commission that has a good working relationship with the City Council can play a key role in keeping the City Council informed and

educated about planning issues. If the Planning Commission can give the City Council good, solid reasons for the positions it takes, the changes are improved that its positions will be accepted.

Relationship with City Staff. The Planning Director or planning staff person may work for the Planning Commission but is not hired by the Planning Commission. The Planning Commission needs to understand that even though the planner may serve as its staff by preparing findings and reports, the position is accountable to the Community Development Director, who is, in turn, accountable to the City Manager. It is within the Planning Commission's authority to seek information from the planner, to ask for recommendations on actions before the Planning Commission and to rely on the planner's ability to provide technical assistance and expert knowledge.

It is not within the Planning Commission's authority, however, to tell the planner to prepare a new General Plan or rewrite the zoning code. These kinds of major undertakings must be approved by the City Council, although the Planning Commission may recommend that the City Council direct staff to undertake a particular study.

Chapter 3 - Introduction to Planning

Introduction

Community planning at the local government level is an effort to shape the community's future through decisions made today regarding land-use, capital improvements, community design, city finances and so on. Planning and land use regulations are a necessary activity of a community wants to shape its future. With the direction and guidance that planning can provide, the community can grow in a more orderly, cost effective manner.

It is important to remember that planning is an ongoing process. It is a continuing activity, as ideas, values, and policies change to reflect the community's changing conditions. Planning can involve differing, even opposite points of view, and disagreements may arise that may be difficult to resolve. Yet the effort can be a rewarding one if the community finds common ground and faces the future together.

What is Planning?

Everyone plans. Planning is an activity that touches just about every aspect of life. Individuals plan their daily schedule as well as more long-range activities such as trips and vacations. Friends plan trips, or may organize their efforts to engage in other types of group activities. Families plan for major purchases such as a home or new car. Businesses plan their purchasing, inventory, pricing and marketing. The common thread that runs through these seemingly different activities is the time, effort and expense that is saved in the future by thinking ahead and plotting a course of action today. City planning may involve more people and be more complex than planning a three-day vacation, but it shares that common thread of organizing the future.

Why Plan?

Communities can realize tangible benefits from planning:

Planning Saves Money. A community can achieve efficiencies in operating government as the result of good planning decisions. For example, zoning that permits construction of a residential subdivision at a long distance from services will prove costly. Residents of the development may request water and sewer, fire, police, road maintenance, and the other services already provided in developed areas of the community and place unanticipated demands on the budget. The same development located adjacent or near to existing services would create a lower long-term demand on the budget through reduction in utility extension costs, maintenance, and related manpower requirements.

Planning Establishes the Ground Rules. Planning establishes ground rules and standards for developers and residents alike and sets the pattern for the community's design and development. A community that has a general plan and land-use regulations will give a clear signal that accepted standards and procedures apply to community development. Developers know the ground rules and know what to expect when a proposal is submitted for the Planning Commission's consideration and

the public knows the standards which will apply during the evaluation of a proposal. Having ground rules will not eliminate conflicts; however, it should help limit the possibility for conflict by having everyone involved or interested in a development activity "reading from the same page."

Planning Can Promote Economic Development. The planning process allows residents and decision-makers to examine alternatives and choose courses of action that can promote employment and economic well-being.

Planning Provides a Forum for Community Consensus. Achieving consensus is a vital aspect of community planning. A planning effort should involve as broad a segment of the community as possible to assure that the community's opinions are well expressed. This also gives a sense of "ownership" in the planning process and the comprehensive plan to as wide a range of people as possible. Community-wide consensus has not been reached if a plan is drawn up by a small group of people who basically agree with each other. It is only when differing viewpoints and values are brought together and the forces of negotiation, persuasion and compromise are at work, that true consensus takes place. Consensus in this context means the formulation of goals to which a majority (or more) of the community will agree.

Planning Can Promote Community Design. Community design is the deliberate process of building the community on the basis of agreed to architectural, aesthetic, and other objectives. It represents an effort to create a proportional balance between the man-made and the natural environments. For example, locating a multi-story steel office tower among two and three story historic buildings would create a significant design problem. Likewise, a development that ignores natural features to create a standard, checkerboard layout has failed to fit in well with the environment, and can damage or destroy natural features and functions.

Planning Can Protect Property and Property Values. Planning can protect property and property values by separating a potentially harmful or disagreeable land use from surrounding residential and commercial uses. Planning also helps to protect stable neighborhoods and their homes to retain their values. Property values can also be enhanced when the community plans for parks, trails, playgrounds and other amenities. Maintaining property values helps support revenues brought into the City through property tax revenue.

Planning Can Reduce Environmental Damage and Conserve Resources. Planning can help a community identify areas where development may be inadvisable because of environmental conditions. These conditions may include avalanche or landslide hazards, areas vulnerable to earthquake damage, eroding stream banks, or other conditions which could threaten development with damage or destruction. Planning can also classify areas which have important habitat or wildlife values.

A Short History of Planning

Community planning in the United States is not a new concept. Colonial Philadelphia, Williamsburg and the new capital of Washington D.C. were "planned" towns where the streets and public buildings were

designed before development began. These cities were following the model established by European cities that incorporated an overall design in their development. Boulevards were arranged in relation to monumental public buildings and extensive parks to enhance the visual impression of the city. These designs were the work of architects who worked much in the same way as a painter designs a canvas.

This concept of community design continued in the United States until the early 1900's. Later on, the technique of zoning gained acceptance and legal validity as a tool to guide overall city development. Zoning was a natural reaction to the situation where original town designs were being outstripped by the rate of expansion of communities. The separation of certain uses and buildings through zoning protected property values and avoided unsafe mixtures of residential and industrial districts.

Community planning took place in earnest in the 1930's and 1940's, as federal expenditures helped fund numerous planning studies. With the passage of Section 701 of the Federal Housing Act in 1954, local planning activity increased dramatically. Many communities used the "701" monies to create community plans to meet both the federal funding requirements as well as deal with local issues. The program was discontinued in 1981.

Passage of the Housing Act was followed closely by federal programs like the Urban Redevelopment Administration and the Overall Economic Development Program in the 1960's, the Coastal Zone Management Act in the early 1970's, and other federal legislation that offered money or encouragement for community and regional planning.

Today, California communities are planning for a variety of reasons, including the State's legal requirements to have a general plan to provide a long term vision for the community. All zoning and land use approval must be consistent with the general plan.

Authority for Local Planning in California

The following state and City laws outline the basic legal framework for local planning:

- Establishment of local planning agencies, Planning Commissions and departments. Government Code Section 65100 *et. seq.*
- General plan and specific plans. Government Code Section 65300 *et. seq.*
- Zoning regulations. Government Code Section 65800 *et. seq.*
- Subdivision Map Act. Government Code Section 66410 *et. seq.*
- Development Agreements. Government Code Section 65864 *et. seq.*
- California Environmental Quality Act. Public Resources Code Section 21000 *et. seq.*; California Code Regulations title 14, Sections 15000-15387 (Also known as the CEQA Guidelines).
- Ralph M. Brown Act, Government Code Section 54950 *et. seq.* (also known as Open meeting Act, or simply the Brown Act).

- Permit Streamlining Act. Government Code Section 65920 *et. seq.*
- City of San Mateo Charter and Municipal Code

What Is a General Plan?

The general plan provides the framework for all zoning and land use decisions within a community. State planning law requires that the general plan include a comprehensive, long-term plan for a city or county's physical development. The general plan shall consist of a "statement of development policies" and must include diagrams and text setting forth "objectives, principles, standards, and plan proposals". The general plan consists of seven mandatory elements and any optional element a city chooses to adopt.

The seven mandatory elements of the general plan are as follows:

- **Land Use Element** – The land use element of a general plan identifies the proposed general distribution and intensity of uses of land for housing, business, industry, open space, natural resources, public facilities and other categories of public and private uses. This element serves at the central framework for the general plan and is intended to correlate all land use issues into a set of coherent development policies.
- **Circulation Element** – The circulation element identifies the general location and extent of existing and proposed major roadways, transit routes, terminals and other local public transportation utilities and facilities. Generally, this element also includes standards (intersection level of service) policies and improvement plans. Any proposed transportation improvements must correlate to other elements of the plan, including the land use element.
- **Housing Element** – The housing element identifies and analyzes existing and project housing needs and includes a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement and development of housing. The Housing Element is the only general plan element for which state law sets forth specific content and schedule requirements. All housing element revisions must be reviewed and certified by the State of California Housing and Community Development (HCD) Department in order for the housing element to be in compliance with state law.
- **Conservation Element/Open Space Element** – These are combined in the City of San Mateo General Plan. The conservation element deals with the identification, conservation, development and use of natural resources while the open space element is the plan for the comprehensive and long-range preservation of open space land.
- **Noise Element** – This element identifies and analyzes noise issues in the community. Current and projected noise levels are indicated, and policies dealing with compatibility of land uses with specific noise levels are also detailed.

- **Safety Element** – The safety element establishes policies and programs to protect the community from risks associated with seismic, geologic, flood and wildlife hazards.

Since 1971, State law has required all cities and counties to have a legally adequate general plan with all of the mandatory elements.

In sum, the preparation, adoption and implementation of a general plan serves to :

- Identify a community's land use, circulation, housing, environmental, economic and social goals and policies as they relate to land use and development;
- Provide a basis for local government decision making, including decisions on development approvals;
- Provide citizens with opportunities to participate in the planning and decision making processes of their community; and
- Inform citizens, developers, and decision makers of the ground rules that guide development within the community.

The general plan bridges the gap between community values, visions and objectives, and physical decisions such as planning application approvals for development projects.

What Planning Cannot Do

While a planning effort and a general plan can produce benefits, it's a mistake to believe that planning has all the answers and is a "cure-all" for whatever ails the community. Planning can produce positive results if it is understood and supported by the Planning Commission, the governing body and local residents. The following limitations, however, should be noted:

- Planning cannot produce miracles, and cannot be expected to suddenly cure all of a community's ills. It is not a short-term proposition, but a medium to long-term undertaking.
- Planning cannot be used to exclude newcomers to the community nor can it be used to prevent change or to keep everything in the community just the way it is.
- Planning cannot be a device for problem-solving or a means of avoiding mistakes unless it has credibility among residents and is supported by elected and appointed public officials.
- Planning cannot succeed without implementing the policies contained in the planning document. Planning needs some sort of action program to carry out its objectives.
- Planning cannot turn a community around and restore economic health and vitality overnight. To do so requires patience, commitment, and vision.
- Planning cannot succeed if it fails to balance competing points of view in the community. A successful planning effort brings all of the players to the table.

- Planning cannot work to the benefit of your community unless you want it to.

Chapter 4 - PLAN IMPLEMENTATION

The Importance of Implementation

The completion of a general plan is a big step, one which represents a substantial expenditure of time and effort, but it does not represent the completion of a planning program. The program will not be complete until ordinances are adopted that implement the plan's goals and policies. Zoning and subdivision ordinances are the most recognized and widely used means of implementation. The Planning Commission and governing body use other means of implementation too, such as the capital improvements plan, and even the more day-to-day decisions that they and the city administration make.

The zoning and subdivision codes must be kept up-to-date and consistent with the general plan. This is because the plan is essentially an advisory document, while the zoning and subdivision regulations are laws that are enforceable. Since the plan will undergo periodic updating to remain accurate, the regulations must be updated too, to assure consistency with the general plan. A revised and updated general plan will be of little use to the community if the zoning and subdivision regulations lag behind and represent outdated policies and land use designations.

Implementing ordinances will be more precise and specific than the terms contained in a general plan. For instance, a plan may contain a policy promoting adequate standards for new single family dwelling development. A provision in a zoning ordinance adopted to implement the plan might contain language that each new home must be constructed on a six thousand square foot lot, and be set back ten feet from its side property line.

Zoning Regulations

Zoning is the classification of land according to use, such as single-family residential, commercial or industrial, and the establishment of standards governing each use within its zone. Uses may be permitted outright, permitted with conditions, permitted as an accessory use to the main use, or prohibited.

A city's zoning code consists of two parts: the map and the text. The map shows the location of different land use classification, while the text contains standards for each classification, such as, but not limited to: minimum lot size, setbacks, maximum building size, and listings of permitted, accessory, conditional and prohibited uses.

Authority for Zoning

State Government Code Section 65800 provides for the adoption and administration of zoning in California:

"65800. It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities, as well as to implement such general plan as may be in effect in any such county or city...the Legislature declares that in enacting this chapter it is its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters."

San Mateo has adopted its own zoning code pursuant to this state enabling legislation. The pertinent sections of the zoning code are referred to in any matters brought before the Planning Commission.

The History of Legal Basis for Zoning

Zoning began in the United States in the early part of the 20th century as an attempt to promote public health and fire safety and separate incompatible uses. In New York, for example, zoning began in an attempt to stop the spread of the garment district up 5th Avenue and to improve the safety and living conditions in tenements. Many lower courts had upheld zoning in the 1920's. It was not until 1926, however, that the United States Supreme Court ruled in the landmark case of *the Village of Euclid v. Ambler Realty*, that zoning was a constitutional use of the police power. Justice Sutherland stated in the majority opinion that:

"each community has the right and responsibility to determine its own character and as long as that determination [does] not disturb the orderly growth of the region and the nation it is a valid use of the police power."

After this decision, zoning spread rapidly throughout the country and became the most widely accepted means of regulating land-use activities. By the 1950's, zoning had become closely associated with comprehensive planning, to the extent that the terms were often used interchangeably. In subsequent years, however, the general plan has become recognized as a policy document and the zoning ordinance as a regulatory document. In fact, state law requires that zoning must be consistent with the general plan.

The police power is basically the government's right to place controls over individual behavior and the use of private property to promote the health, safety and welfare of the community at large. The controls, such as a litter ordinance or zoning code, must have a reasonable basis, avoid constitutional pitfalls and serve a public purpose. Unlike the power of eminent domain, where just compensation must be paid for property which is taken for a public purpose, no compensation is required when zoning is used as a valid exercise of the police power. Zoning has been recognized as a legitimate use of the police power since the *Euclid v. Ambler* case. Times and conditions continually change, however, and zoning and land-use regulation is regularly under review and interpretation by the courts.

Subdivision Regulations

Subdivision is a largely technical activity that is fundamentally different than zoning, despite its common use in implementing the general plan. Subdivision does not address the use of land for residential, commercial and other activities. Instead, it establishes standards for subdividing land and

places certain requirements on those divisions. Its purpose is not to determine which land-use goes where, but to assure that lots are created in accordance with community standards and are properly surveyed and recorded.

Authority for Subdivisions

The Subdivision Map Act, Government Code Section 66411 gives cities and counties the ability to regulate and control the design and improvement of subdivision within its boundaries.

The Subdivision Map Act’s primary goals are to:

- To encourage orderly community development by providing for the regulation and control of the design and improvement of the subdivision, with a proper consideration of its relation to adjoining areas;
- To ensure that the areas within the subdivision that are dedicated for public purpose will be properly improved by the subdivider that they will not become an undue burden on the community; and
- To protect the public and individual transferees from fraud and exploitation.

San Mateo has adopted its own Subdivision Code, consistent with the Subdivision Map Act. The most typical type of subdivision in San Mateo is a condominium, which is a division of air space with the actual building and land being held in common (usually through a homeowners association). New subdivisions of land are relatively infrequent, as San Mateo is an already developed community and has been subdivided.

Other Types of Planning Approvals

There are a number of other types of planning approvals which will come before the Planning Commission. As noted above, state zoning law indicates that “cities may exercise the maximum degree of control over local zoning matters.”

Section 27.08.010 of the San Mateo Zoning Code lists the types of planning approvals that are included as part of a planning application. Some of these items, such as a “code amendment regarding land use regulation” have been described above:

“27.08.010 PLANNING APPLICATION SUBMITTAL. (a) A planning application (PA) shall be submitted for any project requiring a:

- (1) Site plan and architectural review;
- (2) Special use permit;
- (3) Temporary use permit;
- (4) Variance;

- (5) Site development permit;
- (6) Subdivisions;
- (7) Reclassification;
- (8) Planned development;
- (9) General Plan amendment;
- (10) Specific plan amendment; or
- (11) Code amendments regarding land use regulation.
- (12) Downtown Economic Development Permit.
- (13) Planned signing districts and freestanding signs over eight feet in commercial districts.
- (14) R1 Design Review (SFDDR)."

Other Means of Implementation

Zoning and subdivision are not the only means of implementing the general plan, though they are the most common. The Planning Commission can also use other measures to further the goals and objectives of the plan. These other measures can include, but are not limited to, such things as:

Capital improvements that are consistent with general plan goals and objectives, such as paving or the construction of public facilities.

Design Guidelines to regulate the appearance of buildings, including signs, color, lighting, landscaping, and parking.

Economic development strategies designated to enhance the City’s commercial base and provide more jobs or job opportunities in the community.

Redevelopment Plans for specific areas to improve the physical appearance and economic and environmental condition of these areas.

Specific Plans for selected areas of the City, such as the downtown.

Affordable housing strategies to enhance housing opportunities for low and moderate-income households.

Local budget decisions that commit the city’s fiscal resources to the operation of government and the achievement of community goals and objectives.

Chapter 5 - THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Overview

The California Environmental Quality Act (CEQA), Public Resources Code 21000 *et. seq.*, requires governmental agencies to consider the environmental consequences of their action before approving plans or projects. In enacting CEQA, the Legislature explained that the CEQA process is intended to:

1. inform governmental decision makers and the public about the potential environmental effects of proposed activities;
2. identify the ways that environmental damage can be avoided or significantly reduced;
3. prevent significant, avoidable environmental damage by requiring changes in projects, either by the adoption of alternatives or imposition of mitigation measures; and
4. disclose to the public why a project was approved if that project would have significant environmental effects.

To assist in implementing CEQA, a set of guidelines, called "The CEQA Guidelines" have been adopted by the Secretary of Resources and incorporated into the California Code of Regulations, title 14, Section 15000 *et. seq.*

The CEQA Process

The following is a very simplified, brief explanation of the CEQA process. For a more complete understanding, there are many textbooks available for reading as well as workshops which address both general and specific CEQA topics.

Is It A Project?

Not all city actions or actions approved by the city are considered projects which are subject to CEQA. An action is considered a project subject to CEQA if it is discretionary, that is, the city is required to exercise judgment in deciding whether to approve or deny a project, as opposed to situations in which the City merely has to determine whether there has been conformity with the objective standards adopted in the applicable code.

For example, planning applications, many of which come before the Planning Commission for review are considered discretionary actions which are subject to CEQA. The Planning Commission exercises judgment as to whether the project complies with the city's general plan, zoning code, design guidelines and any other applicable standards. However, a simple building permit, for a one-story code conforming addition to a single-family dwelling, does not require discretion (a planning application) and is ministerial only; if the codes are met, the permit is issued and no CEQA review is required.

Determining if the Project is Exempt from CEQA

If an action is determined to be a “project”, it may nevertheless be exempt from the provisions of CEQA. The actual law includes statutory exemptions for certain types of projects, many of which involve projects that are consistent with a previously adopted general plan, community plan, specific plan or zoning ordinance.

The CEQA Guidelines also include a list of “categorical exemptions” which are classes of projects that the Secretary of Resources has found do not have a significant effect on the environment. These types of categorical exemptions include new construction of small structures, minor roadway improvements, minor alterations of land use limitations, and many other types of small, minor projects.

Preparing an Initial Study

If a project is not exempt from CEQA, an initial study will be prepared. This initial study includes a checklist of environmental issues, a standard checklist is provided in the CEQA Guidelines. In addition to the checklist, a written narrative must be provided to indicate why specific impacts were deemed to be potentially significant down to a rating of less than significant. In many instances, the initial study will incorporate the data and findings of special studies, such as a traffic study.

Negative Declaration

If the initial study concludes that the project will not create a significant effect on the environment, a Negative Declaration can be prepared. A Negative Declaration is a written statement that an Environmental Impact Report (EIR) is not required because a project will not have a significant adverse impact on the environment.

A Negative Declaration may include conditions which mitigate potentially significant environmental impacts to a less than significant level. Such a negative declaration is often referred to as a “mitigated negative declaration”. A mitigated negative declaration states that revisions made to the project or conditions agreed to by the applicant would avoid the potentially significant adverse impacts, and that there is no substantial evidence that the project, as revised and conditioned, will have a significant effect on the environment.

As a general rule, an agency may not adopt a negative declaration, and must prepare an EIR, if it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact. Substantial evidence means enough relevant factual information exists so that a fair argument can be made to support this conclusion even though other conclusions may be reached. However, argument, speculation, inaccurate information or unsubstantiated opinion does not constitute substantial evidence. Similarly, the existence of public controversy over the environmental effects of a project does not, in of itself, require preparation of an environmental impact report if there is no substantial evidence before the city that the project may have a significant effect on the environment.

Environmental Impact Report

If the project is determined to have the potential for generating significant environmental impacts, an environmental impact report (EIR) must be prepared. There are a number of required sections in an EIR:

- Table of contents or index
- Summary of proposed actions and its consequences
- Project description
- Environmental setting
- Evaluation of environmental impacts
 - Significant environmental effects of the proposed project
 - Significant environmental effects that cannot be avoided if the proposal is implemented
 - Any significant irreversible environmental changes that would be involved if the proposed action should it be implemented.
- A discussion of the growth-inducing impacts
- Cumulative impacts
- Effects not found to be significant
- Mitigation measures: measures proposed to avoid or minimize the significant effects
- Alternatives to the proposed action
- Inconsistencies with applicable plan
- Organizations and persons consulted

Given the nature of the projects analyzed and the requirements of an EIR, an EIR is normally a much longer document than a Negative Declaration and takes longer to process.

Use of Environmental Documents

Both Negative Declarations and EIR's are forwarded to the Planning Commission as part of a project's packet material. The information contained in these documents should be used as a basis for a rendering a decision in conjunction with considerations related to the general plan, zoning code and other city documents as outlined in this handbook.

The Negative Declaration or EIR must be certified as adequately identifying a project's environmental effects before the project can be approved by the Planning Commission.

Chapter 6 - PLANNING COMMISSION CONDUCT

The Public Interest

Planning Commissioners, like others who are charged with conducting the public's business, must do so in the "public interest." Unlike a special interest, where a limited number of people would stand to benefit or profit, the public interest represents the maximum number of benefits flowing to society at large and not to selected individuals or groups within society. It is by nature more basic and more fundamental than special interest or individual interest or than the sum of special interests or individual interests.

Planning Commissioners have to determine what constitutes the public interest as decisions are made on variances, conditional use permits, rezones and other matters. The following pointers may help in keeping the public interest foremost in the decision-making process:

1. Remember who the client is. It is not the applicant but the public at large and the interest which that public represents. It is not just the people in the meeting room, but all those who are at home, too. It is everyone that lives in the community, and abides by the Planning Commission's decisions.
2. The question of who benefits from the decision should be asked. Does the applicant benefit at the expense of the public? Does the public benefit? Both?
3. The public interest includes the interests of all members of the community not just the interests of selected members.
4. When citing the public interest as the reason for a particular action, be sure that the public at large (i.e., the whole community) will benefit and not just certain individuals or groups.
5. Decisions made in the public interest should consider, to the extent possible, future as well as current generations.

Legal Aspects of Planning Commission Conduct

Planning Commissioners, like the members of all other public bodies in California, must comply with state laws regarding financial disclosure and public meetings. These laws, the Conflict of Interest Law and the Open Meetings Act, set legal standards for the conduct of public officials. Planning Commissioners must also be aware of two other aspects of their conduct: ex parte contact (actually related to open meetings) and due process. Ex parte contact is basically the attempt to influence a Planning Commissioner outside the public forum. Due process is the procedural fairness that the Planning Commission must show to all parties.

Conflict of Interest

The goal of conflict of interest laws is to require public officials to make decisions without being influenced by personal financial interests. Toward this goal, the laws require disclosure of certain private financial interests and disqualification from decision-making under certain circumstances.

Conflict of interest laws balance two competing interests. On one hand, decisions must be made to benefit the public, not private financial interests. At the same time, conflict of interest laws are not designed to insulate officials from making difficult decisions. Making difficult decisions is, after all, one of the primary duties of a public official.

What is a Conflict of Interest?

There are a number of laws which define conflict of interest standards. The Political Reform Act (Government Code section 81000 *et. seq.*) is the most comprehensive. It says:

“No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

The Political Reform Act requires public officials to disqualify themselves on a particular issue if they have conflict of interest. A public official or employee has a conflict of interest when all of the following occur:

- The official makes, participates in, or uses his official position to influence a governmental decision;
- It is foreseeable the decision will affect a financial interest of the official;
- The effect of the decision on the official's financial interests will be material; and
- The effect of the decision on the official's financial interest will be distinguishable from its effect on the public generally.

When in Doubt

The Political Reform Act is quite complex. In practical terms, when officials have an interest in a business, a piece of real property, as source of income related to a matter coming before the Planning Commission, they should consult with the City Attorney prior to the meeting. Also, if a Planning Commissioner lives with 500 feet of a project location coming before the Planning Commission, a conflict of interest is presumed to exist, and the Planning Commissioner should disqualify himself or herself.

Effect of Disqualification

When an official has a conflict, the official must not only disqualify himself from voting, but must also refrain from participating in any debate on the matter. The disqualification must be made on the record.

Disclosure of Conflict

It is not "bad" to have a conflict of interest. It is illegal to fail to declare a substantial conflict of interest or to participate in discussions on issues or decisions where such conflict exists. It is in a Planning Commissioner's and the Planning Commission's best interests to avoid public challenges on conflict of interest charges by heading them off in advance.

Open Meeting Act

All meetings and deliberations of the Planning Commission must be open and public as required by the Ralph M. Brown Act, Government Code Section 54950 *et. seq.* This law is also known as the Open Meeting Act, or simply "the Brown Act".

The courts have consistently interpreted the Brown Act broadly to ensure open deliberation and open decision making so the public can be fully informed and maintain contact with their governmental representatives.

Meetings

The following are defined as meeting and subject to the Brown Act requirements:

- Any congregation of a majority of members of the Planning Commission in the same time and place to hear, discuss or deliberate on any matter within the Planning Commission's jurisdiction.
- Use of direct communications, personnel intermediaries, or technological devices (telephone, fax, e-mail) by a majority of the Planning Commissioners to develop a collective concurrence on action to be taken.
- In addition, a series of individual meetings or conversations which involve less than a quorum, but which taken as a whole involve a majority of the Planning Commission members is also considered a meeting for the purposes of the Brown Act.

What is Not a Meeting

Attendance by a majority of Planning Commissioners at a conference, such as the League of California Cities, or at an open and publicized meeting organized to address a topic of local community concern such as a Chamber of Commerce forum on housing is not considered a meeting, provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction. Similarly, attendance of a majority of the Planning Commission at

a social event or ceremonial event is not considered a meeting, again provided that a majority of Planning Commissioners do not discuss among themselves, specific business within the Planning Commission's jurisdiction.

Brown Act Requirements

In general, the Brown Act requires:

- Posting of the time and place of meetings. (There are also other more notice requirements for planning applications as specified by state law and local ordinance).
- Public comment period. All meetings must allow the public to speak on any item of public interest within the Planning Commission's jurisdiction. In San Mateo, this occurs at the beginning of the Planning Commission meeting.
- Material distributed to the Planning Commission. Any material, either sent out in the packets, given the Planning Commission at the meeting, or otherwise distributed to the Planning Commission becomes part of the "public record" and must be made available to the public.

Also, the Brown Act allows for the removal of disruptive individuals who are willfully preventing the meeting from taking place.

Ex Parte Contact

Ex parte is a Latin term that means, "from or on one side only." It is related to the Brown Act in that it deals with Planning Commissioners being influenced outside the public forum without the benefit of hearing all sides of an issue.

What is Ex Parte Contact?

Contacts which occur away from the hearing are known as ex parte and can include telephone calls, informal meetings, lunches or even a casual encounter on a street corner. The essential element of ex parte contact is that someone with a direct interest in a decision before the Planning Commission - an applicant, a representative of an applicant or an opponent of the applicant - is attempting to influence or secure a vote outside the public forum before a Planning Commissioner has had an opportunity to hear all sides of an issue.

Such contacts may be a source of pertinent information not otherwise available to the staff or Planning Commission members but they should not be permitted to influence a member's decision-making before deliberations begin.

Examples of Ex Parte Contact

Ex parte contact is common for Planning Commissioners because of their visibility in the community and the nature of their work. Discussions with Planning Commission members outside the public forum can be a beneficial way to exchange information and help keep Planning Commissioners informed of

residents' attitudes. A distinction must be drawn, however, between contact on general or legislative matters, and contact on questions that involve specific parcels of land or the rights of certain individuals. The following examples show this:

1. A paid representative for a developer takes a Planning Commissioner out to lunch in order to persuade him/her to vote for a re-zone. The representative urges the Planning Commissioner commit to a "yes" vote three days before the meeting and before all sides of the question have been heard. What should the Planning Commissioner do?

Citizens have a right to contact their elected and appointed representatives and express their viewpoints. Public officials, on the other hand, have a responsibility to uphold the integrity of their office and maintain it as free of influence as possible. The Planning Commissioner should not make any promises or commitments to the developer's representative. This position should be taken whenever specific parcels of property or the rights of specific individuals are under consideration. Given the fact that the re-zone will be coming before the Planning Commission, a meeting of the sort described above should be avoided.

2. The Planning Commission is scheduled to review the municipality's Capital Improvements Projects list at its next meeting and make recommendations to the City Council. A Planning Commissioner is contacted by a resident who wants changes in the list.

The Planning Commissioner should feel free to ask why the resident believes the list should be changed and to explain his/her own position on the priority ranking of projects. The same position can be taken on other general matters that affect the welfare of the public at large, such as the adoption of a comprehensive plan or recommending amendments to the zoning code.

How to Deal with Ex Parte Contact

The following guidelines should be considered in dealing with ex parte contacts.

- If someone contacts a Planning Commissioner to discuss an issue involving the rights of specific individuals or particular parcels of land, the Planning Commissioner should refrain from stating his/her position and invite the person to present their testimony before the whole Planning Commission.
- If someone persists in offering information but is unwilling to testify before the whole Planning Commission, tell the person to put the information on the record, preferably by sending a letter to City staff. If the person is unwilling to have the information placed on the record.
- Written information on a pending Planning Commission action should be sent to staff for review and/or inclusion in the Planning Commission packets.
- If you make a site visit with or without the applicant, disclose that fact on the record before the meeting begins.

- If you do have ex parte contact with a member of the public, applicant or interested party, disclose that fact on the record before the meeting begins.

Above all, use common sense and good judgment when dealing with applicants and other interested parties outside a public forum.

Chapter 7 – THE PLANNING COMMISSION MEETING

Due Process

According to the courts, local planning decisions do not have to be wise, but they do have to be fair. The Planning Commission must respect equally the rights of all parties who appear before it. **The important elements of due process are:**

- adequate, advance notice of meetings;
- availability of staff reports and other information needed by the public to more fully understand issues;
- the opportunity to be heard at public hearings;
- full disclosure or the chance to hear, see, or review all the information available to the Planning Commission in its deliberations; and,
- findings of fact backed up by substantial evidence on the record to support the Planning Commission's decisions.

The Planning Commission has a responsibility to assure that its decisions are fair, impartial and objective, unbiased by even the appearance of having been privately influenced. Excerpts from a Washington State Supreme Court case illustrate the importance of due process and the appearance of fairness. Although not a California case, it clearly illustrates the fairness and impartiality the courts will expect of Planning Commission deliberations.

"Members of Planning Commissions with the role of conducting fair and impartial fact-finding hearings must, as far as practicable, be open-minded, objective, impartial, free of entangling influences and capable of hearing the weak voices as well as the strong." *Buell v. City of Bellingham (1972)*."

Conducting a Planning Commission Meeting

The Planning Commission will conduct basically three types of meetings: regular meetings, special meetings and study sessions. Since no decision can be made in a study session, they are less formal and occur in a more relaxed setting than regular or special meetings. The Planning Commission is not required to accept testimony at a study session nor are any formal actions taken. Study sessions are held to gain a clearer understanding of complex or important issues, to establish a Planning Commission workload, or for some other reason not related to the actual conduct of Planning Commission business.

The Planning Commission has more contact with the public at meetings than at any other time. Thus, the Planning Commission's credibility and effectiveness can be directly affected by the way the public's business is conducted. A Planning Commission that conducts a fair, well-run meeting will preserve the public's confidence and be able to do productive work. A well-run meeting has the added benefit of being less tiring and less frustrating for Planning Commissioners. This permits the Planning Commission to pay more attention to the business at hand.

These meetings require adequate public notice, a published agenda, minutes of the meeting. All public notice is either mailed and or published in accordance with State law and local codes. Minutes are prepared at each meeting and are then forwarded to the Planning Commission for review and approval at their next meeting.

Chairing the Planning Commission

The attitude and abilities of the chair are critical to the successful operation of a Planning Commission. A capable chair understands the issues, understands his or her fellow members, can maintain order, and is able to bring the Planning Commission to a decision even on complicated or controversial issues. A person should be named as chair for his or her leadership abilities in addition to having other qualities such as integrity and fairness.

Responsibilities of the Chair

A chair has two types of responsibilities: those contained in the Planning Commission's rules of procedure and those that are more related to his or her leadership abilities.

Procedural responsibilities include, but are not limited to, the following:

- preside over the meetings of the Planning Commission;
- work with staff in setting and reviewing the agenda; and
- call or schedule special meetings of the Planning Commission.

Other types of responsibilities rest more with the chair's personal abilities, and are not determined by bylaws or other rules of procedure. These include:

Running a meeting. It is the chair's responsibility to run an orderly meeting and conduct the Planning Commission's business in a fair and timely manner. Other Planning Commissioners, the staff and the public will look to the chair for leadership.

Maintaining order. Do not allow members of the public to clap, cheer, whistle, and so on, either for or against testimony that is being presented or in response to comments by Planning Commission members during their deliberations. The chair should "gavel down" this kind of behavior and run an orderly meeting. Neither should the chair permit members of the Planning Commission to accuse or overtly challenge one another, members of the public, or persons testifying.

Keeping the business moving. The Planning Commission should not endlessly mull over matters, continually request new information, and otherwise delay making a decision when the information needed for doing so has been presented. The chair should move the meeting along by summarizing the facts and the positions presented by Planning Commission members, and bringing matters to a vote. Failure to do so is unfair to the City Council, which may be relying on the Planning Commission's recommendation, and to the applicant, whose proposal may be unfairly delayed by indecision.

Managing public testimony. Testimony from witnesses should be held to a reasonable length of time, particularly if a large number of people want to address the Planning Commission. Testimony should be pertinent to the matter under deliberation. The chair should also discourage successive speakers from repeating the same testimony over and over again. While there is a need to keep the testimony moving, the Planning Commission also needs to show an interest in what the witnesses have to say. Once the public hearing is closed no one, other than Planning Commission or staff, is permitted to speak! On occasion, the Planning Commission may wish to recall the applicant to clarify remarks for the Planning Commission. However, this does not re-open the public hearing, and no further public testimony is allowed. There may be legal issues if the Planning Commission appears to base a decision on statements made by the public after the public hearing is closed.

Preventing arguments. The chair should prevent sharp exchanges from occurring between Planning Commission members and persons testifying, and between Planning Commission members themselves. He or she should limit the dialogue between Planning Commission members and persons testifying to fact gathering which will contribute to the Planning Commission's decision-making ability. This is important to prevent a loss of the Planning Commission's objectivity and credibility.

Understanding parliamentary procedure. The chair must understand making motions, amendments to motions, the order in which business is conducted, what is or is not debatable, and so on.

Tying things together. This is the ability to take into account public testimony, Planning Commission deliberations, and an understanding of the issue at hand, in guiding the Planning Commission toward a decision. It is based on the chair's ability to discern a position that a majority of the Planning Commission can support and that is fair to the public.

Qualities of a Good Chair

The ability of the chair to run a meeting is important if the Planning Commission is to get its work done. The qualities of composition for the Planning Commission in general apply equally well to the qualities needed in a chair except Planning Commission members will expect the chair to display leadership skills and run well-organized and purposeful meetings.

The following attributes of a good chair should be considered:

Tact - The chair must show tact with other members and the public. A rude or insulting chair will reflect poorly on the whole Planning Commission and will alienate other Planning Commissioners and members of the community.

Quick Thinking - The chair may have to think and act quickly in overseeing the conduct of the Planning Commission's business. This may include summarizing positions, clarifying motions and giving direction to staff based on the differing views of Planning Commission members.

Respect – A chair whose judgment has been tested and found to be good, whose opinion is sought out, or who has support from diverse elements of the community has earned the respect of his or her peers. This can only help in conducting the Planning Commission's business and enhancing its role in community decision-making.

Speaking Ability - As the spokesperson, the chair must be able to articulate the Planning Commission's position to the City Council, the public and the media. This includes the ability to explain complex or controversial matters which may be either poorly understood or disputed in the community.

Understanding the Issues - Of all members, the chair must be able to understand the business before the Planning Commission. Failure to understand an item which the Planning Commission is to act on can lead to confusion and result in poor decision-making. The chair needs to put extra effort into studying the agenda and preparing for the meeting.

Practical Tips for the Planning Commissioner

1. **Become Familiar with the General Plan and Zoning Code** – These documents provide the basis for many of the decisions you will make. Be aware of their contents.
2. **Read Your Packet** – A staff presentation will be made for each item on the Planning Commission's agenda. However, the full details of a project or study can only be ascertained by a review of the packet material.
3. **Visit Project Sites** - Frequently, visiting a project site can give you a much better understanding about a variance, conditional use permit or other requests before the Planning Commission, than merely reading about it in the packet. Become familiar with the project, then visit the site.
4. **Know All Sides of an Issue Before Forming An Opinion** – Review all staff material, related correspondence and consider all testimony given the night of the meeting before forming an opinion.
5. **Rely on Facts, NOT Opinions** - This can be hard, but it is very important. For example, if someone tells you the Smith rezone is unwise, that is not a good reason to oppose it. If, however, staff recommendations or public testimony show it would be spot zoning, or violate the general plan, then you have a factual basis for a decision.

6. **Use the Chair to Keep the Meeting Orderly** - Avoid extended one on one conversations with the applicant or public; instead, use the chair to direct questions and comments as appropriate. A simple question, such as "Is the color of the building blue?" with a response from the applicant "Yes." is fine. However, extended dialogue and debate between a Planning Commissioner and an individual member of the public (or applicant) make it difficult for the chair and Planning Commission to have an orderly meeting. In addition, it may reduce other Planning Commissioners to being spectators instead of participants.
7. **Take Part in Debate** - As a rule, the quality of the Planning Commission's decision-making is improved when all members contribute to the discussion. Also, taking part in discussion lets other Planning Commissioners know a person's analytical and problem-solving strengths (and weaknesses!).
8. **Ask Questions** - You've heard the expression, "there's no such thing as a dumb question." Well, it's true. If you don't ask, who will? If you don't know, how else will you find out? Don't leave your education on an issue up to chance; take the initiative and find out.
9. **Seek Solutions** - Be a problem-solver. Contribute to debate in a way that will lead to solutions, and not merely add to the difficulty or complexity of a situation.
10. **Focus on Issues, Not Details** - Details are important, but don't get lost in them while trying to resolve an issue. Sometimes it's more comfortable to deal with details when an issue is particularly thorny or difficult, but doing so will not produce answers. You should always strive to understand the essence or substance of the matter you are addressing.
11. **Respect Your Peers** - There is no rule that says Planning Commissioners have to be friends (although that many times occurs), but relationships should be courteous and professional.
12. **Use the Staff** - Staff provides technical assistance. Don't ask staff to make a decision for you; instead, get from them the facts and other information you need to make the best decision you can.
13. **Dealing with Staff** - Don't surprise staff members at a meeting with critical comments. For example, if you have problems with a staff report that appears biased or wrong, contact the staff member beforehand and work out the problem. It is important to maintain a good working relationship with staff.
14. **Being a Planning Commissioner Takes Lots of Time** - The time you actually spend at meetings is only a small part of the time it takes to be a good Planning Commissioner. Be prepared to spend a considerable amount of time remaining informed, active and engaged as a Planning Commissioner.

Planning Application Continuance vs. Denial

In some cases, the Planning Commission offers specific direction to the applicant, with the understanding that the project will be revised consistent with that direction and return to the Planning Commission for approval. In order to allow the project revisions to be made and reviewed by staff, a continuance "to a date uncertain" is the normal motion.

This approach is useful when the applicant is willing to make project revisions. However, if the applicant is unwilling to make any substantial revisions, the continuance will require additional staff work to prepare another administrative report, complete the required public noticing and present the project to the Planning Commission, yet result in the same outcome which would have taken place at the initial Planning Commission hearing - a denial due to the applicant's reluctance to make project revisions which would allow the Planning Commission to make the necessary findings for approval. This decision, of course, can be appealed to the City Council.

The decision to continue or deny is solely a Planning Commission decision. Consent from the applicant is not required. However, the Planning Commission may wish to consider the likelihood that the applicant will actually make project revisions when deciding whether to continue an item. In some instances, the applicant is unwilling to make any revisions; in other instances, major revisions may result which will respond to Planning Commission direction and allow for a motion to approve.

Chapter 8 – MAKING A DECISION AND THE NEED FOR FINDINGS

Planning Commissioners must rely on legal standards and other guidelines in making decisions. These standards may be quite broad, such as constitutional guarantees of equal protection and due process, or they may be much more specific, such as the language contained within the municipality's code of ordinances. This chapter will discuss the importance of building a record, or findings of fact, to justify the Planning Commission's decisions.

Two Kinds of Planning Commission Decisions

Planning Commission decisions can be either legislative or adjudicative in nature.

Legislative Decisions. - For the Planning Commission, legislative decisions are decisions that make or interpret policy. These include general plan amendments, zoning reclassifications and zoning code amendments. The key element of legislative decisions is that they apply equally (or are meant to apply equally) to everyone in the community, not just to specific groups or individuals.

Administrative or Adjudicative (quasi-judicial) Decisions. - Generally, administrative decisions involve those that have a direct effect on the rights and liabilities of an individual or a small group of identified persons. Adjudication deals with a more limited set of facts such as those involved with individual planning applications which may involve variances, special use permits, planned developments and any accompanying environmental documents.

The Need for Findings

Findings are not needed for legislative decisions, although there are some exceptions that require findings. For example, state law requires specific findings should a city adopt a growth management plan that limits the number of newly constructed housing units.

Findings are required for adjudicative decisions, which involve over 95% of all the planning applications that the Planning Commission reviews.

Legal Adequacy of Findings

The California Supreme Court has laid down distinct, definitive principles of law detailing the need for adequate findings when a city approves or denies a project while acting in a quasi-judicial, administrative role. In *Topanga Ass'n for a Scenic Community v. County of Los Angeles*, 11 Cal. 3d 506 (1974) the court interpreted Code of Civil Procedure section 1094.5 to require that a city's decision be supported by findings, and the findings be supported by evidence. The court defined findings, explained their purposes, and showed when they are required.

Purpose of Findings

The Topanga court outlined five purposes for making findings, three relate to the decision making process, two relate to judicial (court) functions:

1. To provide a framework for making principled decisions, thereby enhancing the integrity of the administrative process
2. To facilitate orderly analysis and reduce the likelihood the agency will leap randomly from evidence to conclusions
3. To serve a public relations function by helping to persuade parties that administrative decision-making is careful, reasoned, and equitable.
4. To enable parties to determine whether and on what basis they should ask for judicial review and remedies.
5. To apprise the reviewing court of the basis of the agency's decisions.

Evidence in the Record to Support Findings

There must be evidence in the record to support the findings. Evidence may consist of staff reports, written and oral testimony, the EIR, exhibits and the like.

Boilerplate findings or findings that do not recite specific facts upon which the findings are based are not acceptable. Similarly, in *Honey Springs Homeowners Ass'n v. Board of Supervisors*, 157 Cal. App. 3d 1122, 1151 (1984) a finding that is made "perfunctorily" and "without discussion or deliberation and thus does not show the ...analytical route from evidence to finding will be struck down".

In summary, there is no presumption that a city's rulings rest upon the necessary findings and that such findings are supported by substantial evidence. Rather, cities must expressly state their findings and must set forth the relevant facts supporting them.

Findings in the Administrative Report

Findings are referred and attached to the Administrative Report of all public hearing items (see also Chapter 11 The Administrative Report). These include findings for the environmental document or exemption, consistent with the as requirements by the California Environmental Quality Act. The other findings are related to the San Mateo Municipal Code and the findings required for certain types of planning approvals: Site Plan and Architectural Review, Site Development Permit, Special Use Permit, etc.

In some cases (this is rare), alternative findings are provided should you wish to take an action different than that recommended by staff. Alternative findings are usually provided for projects which involve substantial public controversy and/or have a relatively equal potential of being approved or denied.

If alternative findings are not provided as part of the Administrative Report, staff can normally craft findings for an action different than that recommended by staff, based on statements made by the Planning Commission. However, these statements must relate to the specific findings for the requested applications.

Chapter 9 – CONDITIONS OF APPROVAL

Legal Authority to Impose Conditions of Approval

Conditions of approval (“conditions”) are required of most planning applications (PA’s). These conditions are made part of the Administrative Report (AR) that staff sends to the Planning Commission on every item scheduled for hearing. The authority to impose conditions is derived from several different sources:

State and local requirements – For example, conditions of approval that require automatic irrigation of landscape areas are based on sections of the zoning code that require this type of irrigation. These types of requirements would be mandatory, whether they are listed as a condition or not, since they are required by the San Mateo Municipal Code (of which the Zoning Code is a part). These requirements are listed as conditions of approval to insure that the Planning Commission, applicant, public and City staff know what will be required should the project be approved.

Mitigation measures – These types of conditions are based on mitigation measures included in an environmental document prepared in compliance with the California Environmental Quality Act (CEQA).

Authority granted by state and local ordinance – For example, the City’s zoning code does not have standardized hours of operation for car washes, although they do require a Special Use Permit to be reviewed and approval by the Planning Commission. However, the zoning code does require a finding that the proposed special use “will not cause injury or disturbance of adjacent property”. As a result, the Planning Commission could limit the hours of operation if the Planning Commission found that the reduction in hours “would prevent injury or disturbance of adjacent property” by reducing noise impacts late at night and subsequently impose a condition to that effect.

Design guidelines - There are a number of design guidelines that the City of San Mateo has adopted by resolution. These guidelines may provide the basis for conditions of approval related to design. For example, a single family dwelling second story addition may have a condition added requiring a reduction in the roof pitch, if the Planning Commission finds that such a requirement is necessary to conform with the City’s R1 design guidelines.

Timing of Conditions

The timing of conditions varies. Some conditions may need to be shown on the building permit plans and subsequently verified in the field. Other conditions may relate to the construction phase of the project. There are also use related conditions which are required to be adhered to for the entire life of the project.

The timing of all conditions is included in the conditions list attached to the AR. For example, a number of conditions would be grouped under the following heading:

“The following conditions shall be addressed on the construction plans submitted for any BUILDING PERMIT and/or SITE DEVELOPMENT PERMIT and/or shall be met prior to the issuance of said permit(s).”

This heading indicates that conditions need to be shown on the building permit drawings. The condition would subsequently be verified during field inspection. The Planning Division standard condition regarding “true divided light” would fit under this heading.

Another example of condition timing would be those conditions related to construction activities:

“The following conditions shall be complied with AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.”

This heading includes conditions related to construction, such as the need to provide construction worker parking, designation of truck haul routes, and indicating permitted hours of construction.

The above two examples illustrate the range of timing used to check adherence with conditions of approval. There are a number of such headings; you can check the conditions of approval attached to each AR to find out what the timing for implementation of each condition.

Who is Responsible for Implementing Conditions?

Each condition of approval will include a City department or division responsible for implementation of the condition. The responsible City department or division is noted in (parenthesis) at the end of the condition. A couple of examples:

SEWER CLEAN-OUT - The applicant shall install a standard sewer lateral clean-out in accordance with City Standard Drawing No. 3-1-101. (PUBLIC WORKS)

FIRE ALARM SYSTEM – This structure will be required to be provided with a Fire Alarm System in accordance with the California Fire Code Section 1007. Separate application and permits are required to be obtained by a contractor licensed to perform such work. (FIRE)

In these two instances, the Public Works Department and Fire Department, respectively, are responsible for implementation of the condition of approval.

Mitigation Measures as Conditions

As noted in Chapter 6, The California Environmental Quality Act, mitigation measures identified in environmental documents may allow a Negative Declaration to be prepared instead on an Environmental Impact Report (EIR), and are also used as a basis for findings when approving an EIR that identifies mitigation measures.

As a result, those conditions which are derived as mitigation measures cannot be changed without first examining whether it affects the validity of the environmental document. For example, if a mitigated Negative Declaration is prepared, contingent upon a mitigation measure requiring signalization of a poorly performing intersection, eliminating the condition which requires this signalization would likely result in a significant, unmitigated impact, and would require an EIR to then be prepared.

All mitigation measures included as conditions are marked with an asterisk*. Additionally, the following language is provided at the end of the conditions list:

* **MITIGATION MEASURE** - This measure mitigates adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

Legal Considerations in Imposing Conditions

The City must have a legal authority to impose any conditions of approval, as noted above (see “Legal Authority to Impose Conditions of Approval” at the beginning of this chapter).

Conditions of approval requiring payment of a fee, dedication of land, or funding of a public improvement are often referred to as “exactions”. Both the California Supreme Court and the United States Supreme Court have long held that the regulation of land use, including requirements for exactions and imposition of conditions, does not constitute a “taking” of property if the regulation substantially advances a legitimate governmental interest and does not deny the property owner economically viable use of the land.

For conditions imposed pursuant to City Standards of uniform applicability, courts have also held that cities may impose conditions on development so long as the conditions are reasonable and there exists a sufficient legal nexus (connection) between the condition as imposed and the burden the proposed development will place on the community.

For ad hoc conditions, courts will consider both whether there is a “reasonable relationship” and whether the exaction is roughly proportional” to the impacts of the proposed project.

There is no single, precise rule that is applied by the courts to determine whether or not a dedication or fee condition is reasonable and thus valid. Rather, the courts use an ad hoc analysis and look at the facts of each individual case.

Two court cases help to illustrate the concepts of “nexus” and “rough proportionality.”

Nollan v California Coastal Planning Commission (1987) – “Reasonable Relationship”

In this case, the California Coastal Planning Commission approved the construction of a two-story beach house, subject to the condition that the owners dedicate a public access easement across a portion of their property along the beach. The easement purportedly was required to assist the public in viewing the beach and in overcoming a perceived “psychological barrier” to using the beach.

The owner challenged the easement, claiming that the condition violated the Fifth and Fourteenth Amendments' prohibition against taking private property for public use without just compensation.

The Court held that, although protection of the public's ability to see the beach was a legitimate governmental interest, no nexus or connection existed between the identified impact of the project (obstruction of the ocean view) and the easement condition (physical access across a beach). Therefore, the exaction constituted a taking of private property without just compensation. The Court did, however, state that requiring the dedication of a viewing spot on the *Nollan* property might have been legal since there would be a nexus.

The *Nollan* Court stressed the importance of a nexus or connection between the dedication condition and the burden being imposed by the new development. Since the Court found that no such nexus or connection existed, the decision to impose a condition requiring a public access easement was not a proper land use decision, and therefore amounted to an unconstitutional taking of property.

Dolan v City of Tigard (1994) – “Rough Proportionality”

Florence Dolan owned a store located in the business district of Tigard, Oregon along Fanno Creek, which flows along a boundary of the property. Her proposed plans called for nearly doubling the size of the store and paving a 39-space parking lot.

The Planning Commission granted Dolan's permit application with a condition that she dedicate the portion of her property lying within the 100-year flood plain for improvement of a storm drainage system along Fanno Creek, and that she dedicate an additional 15-foot strip of land adjacent to the flood plain as a pedestrian/bicycle pathway. The Planning Commission made a series of findings concerning the relationship between the dedicated conditions and the projected impacts on the Dolan property.

After appeals to the Tigard Land Use Board of Appeals, court hearings with the Oregon Court of Appeals and the Oregon Supreme Court, the case reached the United States Supreme Court.

In a 5-4 decision, the United States Supreme Court held for the first time that, in making an adjudicative decision, a city must demonstrate “rough proportionality” between the conditions to be imposed on a development permit and the development's impact.

The Court reviewed the two required dedications and found that the city had not met its burden. After analyzing the findings upon which the city relied, the Court stated that the city had not shown the “required reasonable relationship” and “rough proportionality” between the floodplain easement and petitioner's proposed new building.

Noting that the Dolan's project would have increase the amount of impervious surface, which in turn would increase storm water runoff, the Court determined that the City could have required that Dolan simply keep the area open rather than requiring complete dedication.

Also, the court said “on the record before us, the city has not met its burden of demonstrating that the additional number of vehicle and vehicle trips generated by the petitioner’s development reasonably relate to the city’s requirement for dedication of pedestrian/bicycle easement.”

Planning Commission Considerations

City staff reviews all conditions of approval as well as all enabling resolutions and ordinances to insure that all constitutional tests are being met; this involves coordination with the City Attorney’s office on a continual basis. All conditions forwarded to the Planning Commission are those which City staff find fully meet all constitutional requirements and reflect recent case law, including *Nollan* and *Dolan* as well as many others.

Should questions regarding conditions arise at a Planning Commission meeting, they should be directed to staff for an appropriate response.

Chapter 10 – THE ADMINISTRATIVE REPORT

An Administrative Report (AR) is provided to the Planning Commission for virtually every public hearing or study session item on the agenda. The AR’s for upcoming Planning Commission meetings are hand delivered to the Planning Commission on the Thursday before the Tuesday meeting. For example, the AR’s for items on the August 12, 2003 Planning Commission agenda will be delivered on Thursday, August 7.

This chapter will describe the basics of an AR, and its use by the Planning Commission.

Administrative Report Contents

Typical Administrative Reports include the following:

Title Block - At the top of the first page you’ll find the date of the meeting, the agenda item number and the name and address of the planning application (PA). In addition, email address and telephone number of the project planner is listed; you can contact that person (or the Chief of Planning) directly should you have any questions about the AR. The title block looks like this:

Item No: 1
Meeting Date: 12/10/2013



To: Planning Commission

Date: 12/3/2013

Authorized By: Ron Munekawa
Chief of Planning

By: Julia Klein, Associate Planner
(650) 522-7216 / Fax: (650) 522-7201
jklein@cityofsanmateo.org

Subject: PA 13-058 CLASSICS AT SAN MATEO PRE-APPLICATION;

106, 110 & 120 Tilton Ave, San Mateo, CA; APNs: 032-311-120, & -130

Recommendation – The planning staff’s recommendation will be included in this section. Should you wish to follow the recommendation, you can read the italicized portions of the recommendation verbatim:

Recommendation:

That the Planning Commission approve the proposed project by making the following motions:

1. Approve the Revised Mitigated Negative Declaration assessing environmental impacts based upon the Findings contained in Exhibit A.
2. Approve the Site Plan and Architectural Review for the construction of a new five story mixed-use development; the Tentative Map for the merger of 8 lots and the delineation of 54 condominium units; and the Special Use Permit to allow 13,100 square feet of ground floor office space within the C1 zone, based upon the Findings and Conditions in Exhibits A and B.

Background – This section will describe the project site: square footage, zoning, location, unique features etc. It will also generally describe the surrounding area. A project description will also be provided: how many buildings, what size, how tall, proposed land use, number of parking spaces, landscaping proposed, etc.

Issues – This portion of the AR will address all the significant issues related to the project. This section could include discussions of: parking, building design, traffic, tree removal, hours of operation, etc. These issues vary from project to project, depending upon its type, size and location.

Exhibits – These are referenced at the end of the AR and are usually stapled or paper clipped to the AR. These exhibits almost always consist of the following:

Findings. These are usually attached as Exhibit A. This exhibit includes findings for the environmental document or exemption, consistent with the requirements of the California Environmental Quality Act. The other findings are related to the San Mateo Municipal Code findings required for certain types of planning approvals: Site Plan and Architectural Review, Site Development Permit, Special Use Permit, etc.

Conditions. These are usually included as Exhibit B. These conditions may include mitigation measures implemented pursuant to CEQA; these mitigation measures are marked with an asterisk*.

In some cases (this is rare), alternative findings are provided should you wish to take an action different than that recommended by staff.

Attachments - These items provide background information for making a decision. Some of the common attachments include:

- Project plans (reduced size). Full size plans are also forwarded to the Planning Commission.
- Vicinity map.
- Factual data sheet.
- Environmental document (this may include special studies, such as a traffic study).
- Other consultant reports.
- Letters from the public.

Items Not Included as Part of the Administrative Report

Items submitted after the packets are delivered are faxed and also left at your places the night of the meeting. These items are usually letters from the public. In some cases they may include a memo from staff correcting or clarifying information in the previously distributed Administrative Report.

More About the Planning Staff Recommendation

In the vast majority of instances, staff is recommending approval of projects brought before the Planning Commission. This is the result of planning staff working with the applicant to insure that all city codes, policies, regulations and guidelines are met. In addition, some cases require that staff insure all previously identified public and Planning Commission issues have been addressed. This sometimes involves the staff facilitating and mediating discussions between the applicant and neighboring property owners. Some applications are in a form that allow staff to recommend approval of the initial submittal, while others may require meetings with the applicant and plan revisions in order to allow staff to make the mandatory findings required for project approval.

Denial is sometimes, although very infrequently, recommended. However, in some cases, alternative findings for approval, as well as conditions of approval are also forwarded as part of the Administrative Report. These items are included because staff finds that a case can be made for project approval, albeit not as compelling a case as can be made for the staff recommendation.

In rare instances, denial is recommended and no alternative findings and no conditions of approval are included. This is the case when staff has met with the applicant to discuss plan revisions, and the resulting plans clearly do not meet the applicable city codes, policies, regulations and guidelines. This is unusual; this approach is only used when the applicant is has repeatedly been unwilling to make project revisions which would allow staff to make the mandatory findings for approval, even as an alternative motion (as mentioned above).

Should the Planning Commission wish to approve such a project, which is entirely within the Planning Commission's authority, staff will take comments made by the Planning Commission and prepare

alternative approval findings and conditions of approval, normally for adoption at a subsequent meeting.

Sources:

1997 Planning, Zoning and Development Laws, Governor's Office of Planning and Research, 1997

Alaska Planning Commission Handbook, Department of Community and Economic Development
Municipal and Regional Assistance Division, Pat Poland, Director, Project Manager: Peter Freer, Local
Government Specialist V

Curtin's California Land Use and Planning Law 2002 (Twenty Second) Edition, Daniel J. Curtin Jr., Cecily
T. Talbert, 2002

The Planning Commissioner's Handbook, League of California Cities, 1995

CEQA – California Environmental Quality Act, Statutes and Guidelines, Governor's Office of Planning
and Research, 1997

APPENDICES

Chapter 2.24

PLANNING COMMISSION

Sections:

2.24.010 Organization.

2.24.020 Duties.

2.24.010 ORGANIZATION. The Planning Commission heretofore appointed constitutes the Planning Commission of this city. It shall consist of five voting members and one ex officio member.

The five voting members shall be selected by the City Council and shall hold office for a term of four years, or until their respective successors shall have qualified. Each such member shall have one vote in the deliberations of the Planning Commission. The ex officio member shall also be a member of the City Council, shall be chosen by it, and shall hold office until his successor has qualified, but shall not be entitled to vote in the deliberations of the Planning Commission. (Ord. 1989-18 § 20, 1989; prior code § 10.74).

2.24.020 DUTIES. The duties of the Planning Commission shall consist of the following:

(1) It may adopt, establish and amend official master plans and portions thereof and compositions thereof;

(2) It may prepare, adopt and record precise street plans; it may control the construction of buildings within lines of streets shown on such precise street plans;

(3) Such other duties as are now or may hereafter be designated by state statutes, city ordinances, or this code. (Prior code § 10.75).

CHARTER OF THE CITY OF SAN MATEO, CALIFORNIA

Adopted by vote of the People: November 3, 1970

Ratified by Legislature – Resolution Chapter 10 – Statutes of 1971

Filed with Secretary of State – January 19, 1971

Amended – June 4, 1974 (Sec. 7.01)

Amended – November 5, 1974 (Sec. 2.01, 2.18)

Amended – November 4, 1980 (Sec. 2.03, 5.05, 5.07)

Amended – April 5, 1983 (Sec. 2.01, 2.09, 7.01, 8.06)

Amended – June 7, 1988 (Article X, Sec. 10.01, 10.02)

Revised – November 4, 2002 (Charter Chapter 66 - 2002 Statutes)

ARTICLE VI - BOARDS AND PLANNING COMMISSIONS

Section No.

- 6.01 Library Board of Trustees. Powers and Duties
- 6.02 Library Fund
- 6.03 Library Board of Trustees. Appointment, Removal, Terms
- 6.04 Planning Commission. Other Boards and Planning Commissions**
- 6.05 Composition. Qualifications. Terms and Limits of Terms
- 6.06 Payment of Expenses. Prohibition of Compensation
- 6.07 Appropriations for Boards and Planning Commissions
- 6.08 Removal from Office. Vacancies
- 6.09 Special Committees. Limitations
- 6.10 Ex Officio Members
- 6.11 Power of Subpoena. Limitations
- 6.12 Declaration of Policy. Citizen Participation

Section 6.04. PLANNING COMMISSION. OTHER BOARDS AND PLANNING COMMISSIONS.

In addition to the library board of trustees there shall be a Planning Commission which shall have the powers and duties from time to time provided by law or by ordinance.

There shall also be such other boards and Planning Commissions as may from time to time be established by ordinance adopted by the City Council or approved by the people. Except as may otherwise be provided by this Charter, or ordinance of the City Council or ordinance approved by the people, all such other boards and Planning Commissions now or hereafter established shall be for advisory purposes only to the City Council, the city manager, or to departments within the city. A board or Planning Commission shall be considered to be advisory even if it is authorized to take final action subject to appeal to the City Council.

**CITY OF SAN MATEO PLANNING COMMISSION
BYLAWS AND RULES OF PROCEDURE**

**BYLAWS AND RULES OF PROCEDURE
Of the
CITY OF SAN MATEO
PLANNING COMMISSION**

Adopted November 12, 1968

Amended January 17, 1978

Amended February 22, 1982

Amended June 24, 1985

Amended December 9, 1986

Amended November 13, 2001

CHAPTER 1

RULES OF THE PLANNING COMMISSION

A. MEETINGS

1. Regular public hearing meetings of the Planning Commission shall be held on the second and fourth Tuesdays of each month in the San Mateo City Council Chambers at 7:30 p.m. Meetings may be held at such other locations and times as may be determined, so long as the meeting agenda is properly posted as listed in Section D. All meetings shall be open to the public. Study meetings may be held at other times at the discretion of the Planning Commission.
2. Items for public hearing may be considered at other meetings provided adequate notice has been given as required by law or ordinance.
3. A quorum for conducting the business of the Planning Commission shall be three of the voting members of the Planning Commission, and official actions may be taken by a

majority of the voting members present at any meeting unless a larger number if required by law, ordinance, or other provisions of these bylaws.

4. The Chair of the Planning Commission, with the consent of the Planning Commission, shall be responsible for the procedure and conduct of all meetings, and may for special problems in procedure follow the rules of parliamentary practice as set forth in Robert's Rules of Order.

B. ELECTION AND TERMS OF OFFICE

1. The Planning Commission shall, at the first meeting of June of each year, elect from among its members, a Chair and a Vice-Chair. Election shall be held provided that not less than four Planning Commission members are present.
2. The officers shall hold office for one year, commencing in June or until their successors are elected.
3. In case of any vacancy in office, the vacancy shall be filled by an election held at the first regular meeting after the occurrence of such vacancy. Persons so elected shall serve the balance of the term. Election shall be held provided not less than four Planning Commission members are present.
4. Election shall be open ballot, with ballots cast separately for each office. Balloting for Vice-Chair shall follow election of the Chair. In each case, the Planning Commission member with the highest number of votes shall be declared elected.
5. In the case of the absence of, or the inability to act of the Chair and the Vice-Chair, the members present at any meeting shall, by an order entered in their minutes, select one of their number as Chair pro-tem to serve for that meeting.

C. DUTIES OF OFFICERS AND STAFF

1. Chair: The chair shall preside at all meetings of the Planning Commission. The Chair may call a special meeting of the Planning Commission when the Chair deems appropriate. The Chair shall, with the consent of the Planning Commission, have the power to represent the Planning Commission, establish practices for the conduct of Planning Commission business, appoint committees or do such other things as are necessary to accomplish the purpose of the Planning Commission and carry forward its responsibilities to the City Council and citizens of the City of San Mateo.
2. Vice-Chair: In the event of the absence of the Chair or of his inability to act, the Vice-Chair shall perform the duties of the Chair.
3. Director of Community Development: The Director of Community Development or designee shall be the Administrative Secretary of the Planning Commission and shall

maintain minutes of the meetings and records of hearings and official actions and read correspondence received from interested citizens. The Administrative Secretary shall:

- a. On all official actions for which a specific number of votes is required by local or state legislation, show the vote of each member, absences, and abstentions.
- b. Certify all official documents and resolutions of the Planning Commissions.
- c. Report to the Planning Commission on procedural matters pertaining to items before the Planning Commission.
- d. Examine incoming mail for proper referral and answer correspondence for the Planning Commission.
- e. Maintain official records.
- f. Perform such other duties as may be assigned by the City Manager or by the Planning Commission with the concurrence of the City Manager.

D. MEETING AGENDA

1. At least 72 hours before each Planning Commission meeting, the Administrative Secretary or designee shall post an agenda with a brief general description of each item of business to be transacted or discussed at the meeting together with the time and location of the meeting. The agenda shall be posted in a location that is freely accessible to the public, to be determined by the Administrative Secretary. The Administrative Secretary or designee shall sign a declaration at the time and place of posting.
2. At least 24 hours before each Planning Commission meeting, a notice specifying the time and place of the special meeting and business to be transacted shall be posted in a location that is freely accessible to the public and shall be delivered personally or by mail to each member of the Planning Commission and to any other local newspaper of general circulation, radio, or television station requesting notice in writing. In the event notice is given less than 48 hours in advance of the meeting, it shall be delivered personally and not mailed. The Administrative Secretary or designed shall sign a declaration of the time and place of posting and delivery.
3. The order of business for regular meetings of the Planning Commission shall be as follows:
 - a. Pledge of Allegiance
 - b. Roll Call
 - c. Approval of Minutes
 - d. Public Comment
 - e. Public Hearing Items

- f. Study Items
- g. Communications / Announcements
- h. Other Business of the Planning Commission

The Chair of the Planning Commission shall have the discretion to change the order of items on the Planning Commission's agenda.

4. During the "Public Comment" period, members of the public shall be given an opportunity to speak on all items within the Planning Commission's jurisdiction, including non-public hearing agenda items. The Chair shall determine whether the matter is within the Planning Commission's jurisdiction. Public testimony on public hearing items will be taken during the public hearing and not during the public comment period. Each member of the public may speak for a maximum of three minutes, with a maximum of fifteen (15) minutes of the entire Public Comment period. If no member of the public wishes to speak, then no time shall be reserved for public comment. If more members of the public wish to speak than can be accommodated with the fifteen minutes period, an additional public comment period, not to exceed fifteen (15) minutes, may be scheduled after all other Planning Commission business has been completed.
5. At a special meeting, the Planning Commission may consider only that business shown on the notice of the special meeting.
6. At a regular meeting, the Planning Commission may take action only on items shown on the posted agenda, unless the Planning Commission takes one of the following actions:
 - a. Determination by a majority vote of the Planning Commission that an emergency situation exists, including work stoppage or crippling disaster which severely impairs public health, safety, or both.
 - b. Determination by a two-thirds (2/3's) vote of the Planning Commission, or by a unanimous vote if less than two-thirds (2/3's) of Planning Commission members are present, that the need to take action arose after the agenda was posted.
 - c. Determination by a majority vote that the matter was included on a properly posted agenda for a Planning Commission meeting occurring not more than five calendar days before, and at the prior meeting the item was continued to this meeting.
7. The Planning Commission shall not act or discuss any matters raised during the public comment period which are not on the agenda, but shall refer such matters to staff for review and/or place such matters on a future agenda.

E. PUBLIC HEARINGS

The public is permitted to speak on public hearing items subject to the following conditions:

1. The Chair may limit the amount of time allotted to speakers.

2. Members of the public may only speak when recognized by the Chair.
3. Questions from the public, an applicant, or an appellant will be answered by staff at the direction of and through the Chair and not directly to the questioner.
4. Applicants, appellants, and members of the public who wish to speak on an item shall fill out a card showing their name and address and deliver it to the staff.
 - a. The following order shall be followed in the conduct of public hearings:
 - 1) Staff presentation
 - 2) Planning Commission questions of staff
 - 3) Presentation by applicant
 - 4) Planning Commission questions of applicant
 - 5) Presentation by appellant, if applicable
 - 6) Planning Commission questions of appellant, if applicable
 - 7) Open public hearing for comments
 - 8) Final comments by applicant and/or appellant
 - 9) Further Planning Commission questions of staff, public, appellant, or applicant
 - 10) Closing of public hearing
 - 11) Planning Commission discussion and decision

F. DEADLINE FOR PLANNING COMMISSION CONSIDERATION

Consistent with City Council policy, no new items shall be introduced after midnight.

G. CANCELLATION OF MEETING

Where there is no business to be transacted at a regular meeting, the meeting may be cancelled by the Chair or by vote of the Planning Commission taken at a regular meeting of the Planning Commission. Before determining that there is no business, the Chair shall attempt to contact each Planning Commissioner to determine if they have any business for the meeting.

H. ADOPTION

Upon adoption of these bylaws by a majority vote of the Planning Commission of the City of San Mateo, they shall become effective.

I. AMENDMENTS

These bylaws may be amended by the Planning Commission at any regular meeting by a majority vote provided not less than four Planning Commission members are present.

BOARDS AND PLANNING COMMISSIONS: RULES AND PROCEDURES

Resolution No. 106 (1982)

PURPOSE

To better assure the continuity of various practices relating to the City's miscellaneous boards and Planning Commissions.

POLICY

1. APPOINTMENTS AND INTERVIEWS:

Information as to vacancies on Boards and Planning Commissions shall be given broad dissemination and applications shall be accepted for vacant positions for a three-week period following the announcement of the vacancy.

Interviews of qualified applicants shall be held by the City Council prior to appointment. It is possible that the City Council may not interview all qualified applicants.

2. ADVICE AND REPORTS TO THE CITY COUNCIL:

The primary purpose of Boards and Planning Commissions is to provide advice to the City Council to aid it on its decision-making process. It is therefore inappropriate for a Board or Planning Commission, or members thereof, to criticize or attempt to change a City Council decision reached after due consideration of the matter.

Boards and Planning Commissions shall submit their recommendations in writing accompanied by the reasons for the recommendations.

Boards and Planning Commissions shall provide quarterly reports to the City Council on matters of interest considered by the Board or Planning Commission during the previous quarter.

3. ACTION TAKEN BY BOARDS AND PLANNING COMMISSIONS:

Although there are a number of items that come before the Boards and Planning Commissions that do not necessitate any formal motion and approval of that motion, when the Board or Planning Commission is developing a recommendation for City Council consideration, it should be formalized by passing a motion. This will help to ensure that the City Council clearly understands the recommendation or decision provided by the Board or Planning Commission.

4. REVIEWING TAPES OF MEETINGS; ABSENT PLANNING COMMISSIONERS:

In those cases where items have been discussed at meetings and will be coming back to the Board or Planning Commission for further action in the future, any Planning Commissioner who was unable to attend the meeting should arrange to listen to the tape recording of the meeting that they missed. In

those cases where the Planning Commissioner is unable to listen to the meeting tape in advance of the need to take action at a subsequent meeting, they should abstain from discussion and voting on that particular item. Failure to review the information that had been presented at an earlier meeting handicaps the ability of a Planning Commissioner in trying to make a decision based on only a portion of information available at a subsequent meeting.

5. REQUEST FOR ADDITIONAL INFORMATION -MAKE IN ADVANCE:

In those cases where a Planning Commissioner receives information on agenda items and feels there is a need for additional information, he or she should make that request of Staff in advance of the meeting. Requesting information in advance of the meeting provides Staff with time to attempt to develop the requested information, and include it in their Staff presentation to the Planning Commission.

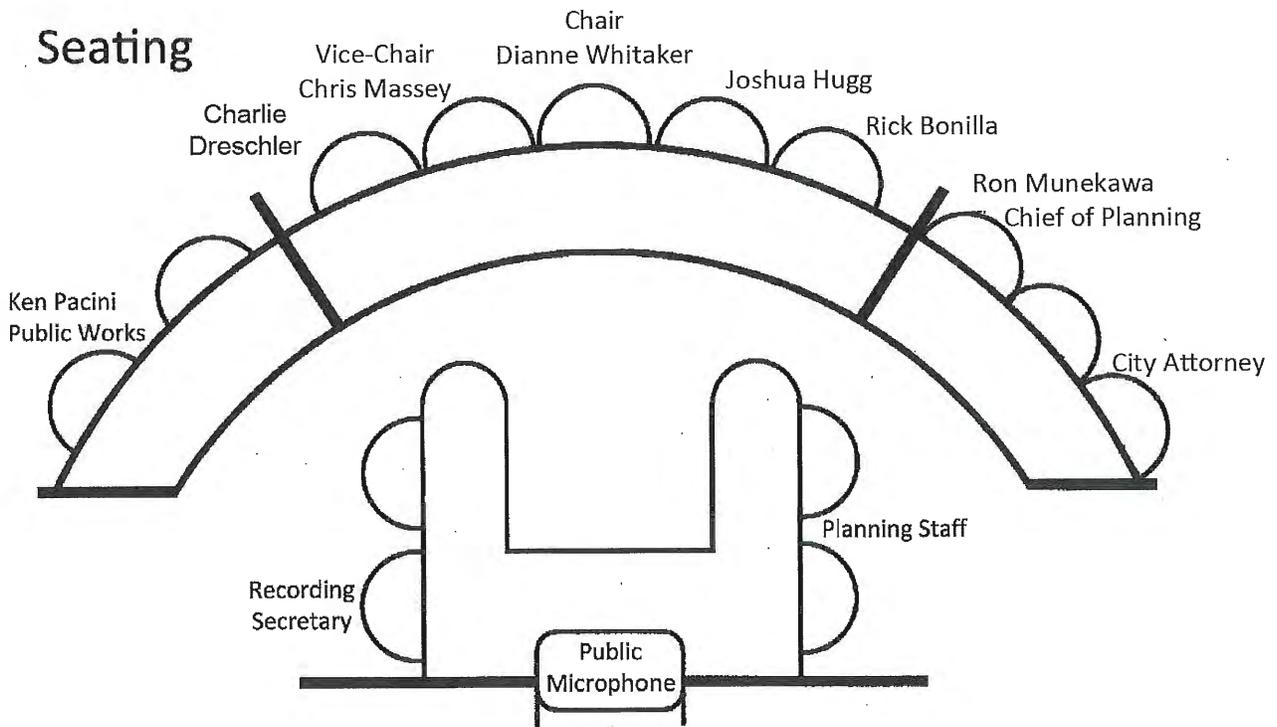
WELCOME!

For those members of the general public who are attending their first Planning Commission meeting, the following general information is offered.

Planning Commissioners are appointed by the City Council and serve, without pay, for a four-year term. The Planning Commission acts under the policies and ordinances of the City Council. Your presence and participation are important toward furthering an informed and responsible government

HEARINGS

Meetings are held on the 2nd and 4th **Tuesdays** of each month. The public hearings begin at 7:30 p.m. in the City Council Chambers. (Note: Special meetings are occasionally scheduled and the public is invited to these meetings). Anyone wishing to address the Planning Commission is asked to give their name and address, in writing, to the Recording Secretary. Forms for this purpose are available at the public microphone and from the Recording Secretary. Agendas for each meeting are available in the lobby and on the city website.



PLANNING COMMISSION MEETINGS

Prior to hearing the first agenda item, the Planning Commission will hold a Public Comment Period for persons wishing to speak on any subject **not** on the agenda.

After the Public Comment Period, the Planning Commission will hear the first item listed on the agenda. All items head by the Planning Commission follow the procedure below:

1. **The Planning Commission Chair** announces the item to be heard.
2. **Staff presentation.** City staff makes a presentation. After the presentation, Planning Commissioners may ask questions of staff.
3. **Applicant presentation.** Project applicant makes a presentation. After the presentation, Planning Commissioners may ask questions of the project applicant.
4. **Public Hearing:** The Planning Commission Chair opens the public hearing.
 - a. **Speakers.** If you wish to speak, please fill out a "Request to Speak" form available in the front of the City Council Chambers. Give it to the Recording Secretary. Your name will be called in the order received. Please use the microphone at the front of the City Council Chambers and state your name and address for the public record.
 - b. **Number of Speakers:** If you agree with the points made by the previous speaker, you may so elect to have a spokesperson for your group.
 - c. **Previously submitted materials.** The Planning Commission reviews all letters, emails and correspondence from the public. All of these items are part of the public record. The Planning Commission is interested in hearing your comments, but it is not necessary to read your correspondence, verbatim, into the record. You may choose to summarize your major points.
 - d. **Courtesy.** Please do not clap, cheer, interrupt, whistle, etc., neither for or against testimony that is being presented, as the Planning Commission wishes to extend courtesy to all speakers. Please also set cell phones & pagers to vibrate before the meeting begins.
5. **Public Hearing Closed.** After all members of the public have had an opportunity to speak, the Planning Commission Chair will close the public hearing. AT that time, testimony is limited to the Planning Commission and City Staff. However, on occasion, the Planning Commission may recall the applicant to answer questions.
6. **Planning Commissioner Comments.** After all Planning Commission questions have been answered, the Planning Commission will deliberated and render a decision. Some decisions are final with the Planning Commission unless appealed to the City Council, other decisions are recommendations to the City Council for their consideration at a future City Council hearing. The Chair will announce the type of decision after the vote is taken. Please note: "study

session” items are for discussion purposes only, **no** vote is taken; instead comments are given back for consideration and subsequent plan revision before the project comes back repeating comments. You may also elect to have a spokesperson for your group.

The Planning Commission conducts the meeting according to the By-Laws adopted by the Planning Commission. Planning Commission Agendas and materials can be downloaded from the website at: www.cityofsanmateo.org/index.asp?NID=1927.

INFORMATION ON PLANNING COMMISSION VOTES – Feb 2009

Here are the instances in which being short one PC member will affect PC actions:

- 1) As you probably remember, if there is a 2-2 split on a vote, it will constitute “no action” which equates to denial of the application.
- 2) For Housing Element and General Plan recommendations to the City Council, there will need to be an affirmative vote of not less than a majority of the PC’s total membership (e.g., three “yes” votes will be required to make the recommendation). (Gov. Code sections 65354, 65356.)

Let me know if you have any follow-up questions. Thanks

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