



AGENDA

**SAN RAFAEL PLANNING COMMISSION
REGULAR MEETING
TUESDAY, January 28, 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, January 14, 2020

PUBLIC HEARING

2. **999 3rd Street (BioMarin R&D buildings / Whistlestop Senior Center / Senior Housing)** – Request for General Plan Amendment, Planned Development (PD) Rezoning, Environmental and Design Review Permit, Master Use Permit and Sign Program amendment for the development of two 72-foot tall, four-story Research and Development buildings on a 3.05-acre parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN's: (APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55); Second/ Third Mixed Use (2/3 MUE) & Planned Development (PD1936) Districts; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area; GPA18-001/, ZO18-003/ZC18-002/ ED18-087/UP18-034/SP18-006/IS18-001/DA19-001. Project Planner: Sean Kennings
3. **190 Mill Street**– Request for General Plan (GP) and Zoning Map Amendment and Use Permit (UP) and Initial Study/Mitigated Negative Declaration. The site currently has a light industrial (LI/O-GP & CCI/O zoning) classification. The amendments would extend the existing High Density Residential (HDR) GP Land Use Classification and High Density Residential (HDR1) Zoning district boundary to include this site. The project also includes construction of a 24,042 square foot building to accommodate expansion of the existing emergency shelter to allow 60-beds and add 32 permanent supportive housing units. APN: 014-192-12; Core Canal Industrial/Office (CCI/O) District; Homeward Bound owners/applicant; File No(s): GPA19-001/ZC19-001/UP19-001

(THIS ITEM IS CONTINUED TO A DATE CERTAIN OF FEBRUARY 11, 2020)

DIRECTOR'S REPORT COMMISSION COMMUNICATION ADJOURNMENT

- I. Next Meeting: February 11, 2020.
- II. I, Anne Derrick, hereby certify that on Friday, January 24, 2020, I posted a notice of the January 28, 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, January 14, 2020



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
Sarah Loughran
Berenice Davidson
Shingai Samudzi
Mark Lubamersky

Absent: Aldo Mercado

Also Present: Alicia Giudice, Senior Planner

PLEDGE OF ALLEGIANCE

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

URGENT COMMUNICATION

CONSENT CALENDAR

1. Minutes, December 10, 2019

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

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

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**

[Staff Report](#)

No Action: This was a study session and no action was taken. The Commission provided staff and the Los Gamos Drive Project Applicant with comments indicating a general support but advising them to address a number of items as part of their formal application.

- 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**

[Staff Report](#)

Mark Lubamersky moved and Berenice Davidson seconded to approve the following appointments: Chair: Schoppert, Vice Chair: Mercado.

The vote is as follows:

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

Mark Lubamersky moved and Berenice Davidson seconded to act on two separate items concerning the Planning Commission "Rules and Procedures" as follows:

- a) The Planning Commission voted on one change to Section 11.F to add rules allowing meeting for informational Presentations to be convening without a quorum.
- b) The Planning Commission voted to continue discussion of what exparte communication is required to be reported

The vote is as follows:

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

Selection of Liaisons to DRB meetings - the Commissioners volunteered to be Liaisons for the Design Review Board for 2020.

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 28, 2020
Agenda Item:
Case Numbers: GPA18-001/ZO18-003/ZC188-002 / ED18-087 /UP18-034/ SP18-006 / S18-001/DA19-001
Project Planner: Sean Kennings
(415) 533-2011

REPORT TO PLANNING COMMISSION

SUBJECT: 999 3rd Street (BioMarin R&D buildings / Whistlestop Senior Center / Senior Housing) – Request for General Plan Amendment, Planned Development (PD) Rezoning, Environmental and Design Review Permit , Master Use Permit and Sign Program amendment for the development of two 72-foot tall, four-story Research and Development buildings on a 3.05-acre parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN's: (APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55) ; Second/ Third Mixed Use (2/3 MUE) & Planned Development (PD1936) Districts; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area; GPA18-001/, ZO18-003/ZC18-002/ ED18-087/UP18-034/SP18-006/IS18-001/DA19-001.

EXECUTIVE SUMMARY

The City of San Rafael is the lead agency responsible for overseeing environmental review for a project proposing the development of two 72-foot tall, four-story Research and Development buildings for BioMarin, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel. In addition, BioMarin would maintain the rights to build the previously 72,396 sq. ft office/research and development building on a portion of the parking lot at 755 Lindaro St and a six (6) story expansion to the existing Lincoln Ave garage. The required and submitted applications for Planning entitlements include a General Plan amendment (GPA18-001) to adjust the maximum floor area limits for this the campus create a new height bonus applicable to the 999 3rd St property, Zoning Text amendment (ZO18-003) and create a new height bonus for this area. The Planned Development (PD) Rezoning (ZC18-002) and Master Use Permit (UP18-034) is proposed to incorporate the BioMarin portion of 999 3rd St into the rest of the San Rafael Corporate Center campus and create a single PD District with appropriate standard for this this project, a Development Agreement (DA18-001) to establish a 10 year time frame for the entitlements and freezing of impact fees an Environmental and Design Review Permit (ED18-087) for the design of the new BioMarin and Whistlestop structures and site improvements, a Small Subdivision (S18-001) to subdivide the 15,000 sq. ft site for the Whistlestop portion of the project from the remainder of the 133, 099 sq. ft. 999 3rd St site and a Sign Program Amendment (SP18-006) to add additional signage for the entire campus.

The project's potential environmental impacts have been assessed. A Draft Environmental Impact Report (DEIR) (SCH # 2019029046) was previously prepared and made available for public review on August 9, 2019, for a 45-day public review and comment period concluding on September 24, 2019 at the Planning Commission meeting. The City received six written comments during this review period. Only one member of the public provided verbal comments at the Commission hearing, in addition to comments provided by the Planning Commission.

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A Final Environmental Impact Report/Response to Comments (FEIR) has been prepared. In addition to reviewing the merits of the project, the Planning Commission will be asked to certify the FEIR, adopt a Statement of Overriding Considerations for the significant, unavoidable impact to transportation/circulation and approve a Mitigation Monitoring and Reporting Plan (MMRP). Draft resolutions to certify the FEIR, adopt a Statement of Overriding Considerations and approve a MMRP are attached as Exhibits 2a and 2b.

The FEIR concludes that the project will result in a "Potentially Significant Impact" on *Land Use and Planning* and *Transportation*. Recommended mitigation measures are proposed to reduce *Transportation* impacts to a less-than-significant level. As such, the City of San Rafael requires the adoption of a Statement of Overriding Considerations needed to implement the improvements if the Commission elects to approve the project. Adopting a Statement of Overriding Considerations would mean that the Commission finds that, on balance, the public benefits of the project outweigh the significant unavoidable environmental impacts.

In consideration of the request for a statement of overriding considerations, the project sponsor is proposing a variety of public benefits included in the Development Agreement Term Sheet, (Exhibit 5) to offset the significant and unavoidable impact related to implementation of mitigation measures for intersection improvements and the Development Agreement to freeze the entitlements for the BioMarin portion of the project for a period of 10 years. These public benefits are presented as, generally, the project itself, implementation of City Goals and Policies, redevelopment of an existing infill site, significant community benefits in the donation of land and monetary funding to Whistlestop for development of the Healthy Aging Campus, pedestrian/ infrastructure investments in the form of intersection and circulation improvements and increased economic impacts to the City of San Rafael.

The project design for both the BioMarin and Whistlestop portions of the project were reviewed by the Design Review Board (DRB) on three occasions (once as a pre-application design and twice as a formal application) and received a unanimous recommendation for approval with suggested minor modifications. The Commission has also reviewed this project on four prior occasions, twice as Conceptual review and stud session, and twice for the EIR process (NOP and Draft EIR hearing)

As discussed in this report, staff concludes that the project, as proposed and as conditioned, is consistent with the San Rafael General Plan 2020, with the requested amendments, and all applicable zoning development standards as revised, and complies with all applicable review criteria and guidelines. The project would, generally, further long-term goals of the City by promoting the continued employment of over 500 local workers, allowing the growth of a major downtown employer, redevelopment of an infill property, featuring a modern, centralized, fully sustainable, office and laboratory facility, and facilitate the relocation of Whistlestop to create a modern healthy aging campus as well provided needed senior affordable housing in a transit-oriented location. Draft resolutions have been prepared (see attached Exhibits 2a-g) outlining findings that support a recommendation for project approval.

RECOMMENDATION

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

1. Open the Public Hearing and accept public testimony on the project;
2. Close the Public Hearing and review and discuss the Final Environmental Impact Report (FEIR), including the significant impacts and whether a Statement of Overriding Considerations should be granted, and the planning, merits and issues; and
3. Adopt the following Draft Resolutions recommending to the City Council:
 - a. Certification of the FEIR

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- b. Adoption of CEQA Findings, a Statement of Overriding Considerations, and approval of a Mitigation Monitoring and Reporting Program (MMRP); and
- c. Adoption General Plan Amendments to establish text and map amendment to 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd St site and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site; and
- d. Adoption a Zoning Text Amendment to establish new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria; and
- e. Adoption of a PD Rezoning to allow for the BioMarin portion of the 999 3rd St property to be combined with existing SRCC parcels with appropriate and revised land use regulations; and
- f. Approval a Development Agreement for the BioMarin portion of the site to vest the entitlements for a 10-year period, freeze impact fees at current rates and modify terms of the prior Development Agreement; and
- g. Approval, with conditions, an Environmental and Design Review Permit, Master Use Permit Small Subdivision and Sign Program Amendment for the project.

PROPERTY FACTS

Address/Location:	999 Third St	Parcel Number(s):	011-265-01
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Property Size:	133,099 (3.05 acres)	Neighborhood:	Downtown
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Site Characteristics			
	General Plan Designation	Zoning Designation	Existing Land-Use
Project Site:	Second/Third St. Mixed-Use (2/3 MU)	Second/Third St. Mixed-Use East (2/3 MUE)	Vacant/surface parking
North:	2/3 MU/ 4SRC	2/3 MUE	Parking structure / commercial
South:	2/3 MU/ P/QP	2/3 MUE / P/QP	Parking structure / PG&E corp yard. Multi-family residential
East:	2/3 MU	2/3 MUE	Commercial
West:	2/3 MU	2/3 MUE	Commercial / office

Site Description/Setting:

The project site is comprised of a 133,099 sq. ft. parcel. The project site has four frontages: Third St. on the north and Second St. to the south, Lindaro St. on the east, and Brooks St. to the west. It is a relatively flat (<1% average cross-slope) and located within the Downtown Parking District. It is currently undeveloped, as two, multi-story office buildings (PG&E) were recently demolished. The majority of the site previously underwent a soils remediation project by PG&E, prior to the sale of the property to BioMarin. BioMarin has recently completed a subsequent soil remediation project on the portion of the site under the former buildings to complete the remediation of the remaining project area. The property is currently a vacant paved parking lot.

BACKGROUND

BioMarin, a global biotechnology company, was founded in Marin County in 1997. In 2013, BioMarin moved its headquarters to the SRCC, a campus of over 400,000 sq. ft. on approximately 15.5 acres. In 2015, BioMarin completed construction of its first new research laboratory building at 791 Lincoln

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Avenue. In 2015, BioMarin received entitlements to complete build out of the existing SRCC campus for construction of a 72,396 sq ft laboratory/office building on a portion of 755 Lindaro Street and construct an extension of the 788 Lincoln Avenue parking structure. This building, and parking structure addition, have not yet been constructed.

In 2015, BioMarin purchased the approximately three-acre 999 3rd St. property in downtown San Rafael from PG&E. This site, located adjacent to SRCC, was once used by the historical Manufactured Gas Plant (MGP) for support activities and is currently vacant and awaiting completion of environmental remediation. Soil and groundwater onsite conditions containing polynuclear aromatic hydrocarbons (PNAs) and volatile organic compounds (VOCs) have been remediated in accordance with the DTSC and continue to be monitored. The remediation process, when completed, will allow for residential development as proposed.

BioMarin is one of the largest and fastest growing employers in San Rafael and Marin County, and a significant share of its workforce resides locally. BioMarin is planning for future space needs by addressing San Rafael's goals of economic development, downtown vibrancy, affordable senior housing, and transit-oriented development.

Project History:

BioMarin submitted a Pre-Application in August of 2016. Pre-Application provided an opportunity for technical review of major code requirements by City departments. Following subsequent City comments, BioMarin modified its project by reducing the requested total development square feet on 999 3rd Street as well as the requested height bonus.

The Conceptual Design was reviewed by the Design Review Board at a regular hearing on [February 6, 2018](#) and again by the Planning Commission at a regular hearing on [February 27, 2018](#). In general, the DRB and the Planning Commission were generally supportive of the proposed project including the design aesthetics, the overall height, and intensity of use. Comments were provided to Whistlestop/EDEN Housing requesting the project design meet the requirements for front setbacks and suggested the proposal could include more height (and more units) to compensate for meeting the front setback requirements. Comments regarding parking included understanding the applicant's survey and existing conditions assessment.

Following those two meetings, the applicants revised the project and submitted a formal application to the City in October 2018. The project has subsequently been reviewed by the Planning Commission at a Study Session public hearing on [May 14, 2019](#) to understand and evaluate the development program and entitlement requests. The Commission was generally supportive of the project. The DRB has also formally reviewed the project design on [June 19, 2019](#) and again on [August 20, 2019](#), with ultimate recommendations to the Commission to approve the design review.

Following the DRB review, the Draft EIR was prepared and published and reviewed by the Planning Commission on [September 24, 2019](#) and since then, the Final EIR has been prepared and the Final EIR, along with the project merits and applications are before the Commission for review and recommendation.

PROJECT DESCRIPTION

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

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Requested Entitlements: The initial applications that will be required would include:

General Plan Amendment is requested to 1) modify Exhibit 6 FAR Maps to a new blended rate of 0.90 for SRCC site and the BioMarin portion of the 999 3rd St site, and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site

The proposed amendments to Exhibit 6 and Exhibit 10 are included as Attachment A and B in Exhibit 2c at the end of this staff report.

Zoning Text Amendment to modify the height bonus provisions in Section 14.16.190(A) to add a new subsection 4) which adds add a new 20 ft. height bonus for this site. The new height bonus will read as follows:

4. On the 999 3rd Street Property, a twenty-foot (20') height bonus for any of the following:
 - a. Affordable housing (minimum 60 units)
 - b. Privately owned public plaza (5,000 sq. ft. or more in size)
 - c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
 - d. Pedestrian crossing safety improvements at adjacent intersections
 - e. Donation of funds for development of bike lanes;

The resolution for the proposed Zoning text amendments is included as Exhibit 2d at the end of this staff report.

Planned Development Rezoning is requested to rezone the BioMarin portion of the 999 3rd St campus from the current zoning of Second/Third St Mixed Use East (2/3MUE) to a PD, and to consolidate and update the existing San Rafael Corporate Center campus (currently PD 1936) District such that the 118,099 square feet of the 999 3rd Street property would be included, including specific parking standards for the entire campus, development standards and land use allowances.

The resolution for the proposed amendments to PD-1936 is included as Exhibit 2e at the end of this staff report.

Development Agreement to vest the approvals for an extended period of time (10 years) and freeze the development impact fees in exchange for provision of certain public benefits,

Major Environmental and Design Review Permit is required for both components of the [project for the design, site improvements and landscaping for the new R&D buildings for BioMarin and the Whistlestop senior center and residential units;

Use Permit is requested to allow: 1) Residential uses in a commercial (2/3 MUE) zoning district or the Whistlestop component of the project, and 2) update the Master Use Permit for the San Rafael Corporate Center Campus, to include the BioMarin portion of 999 3rd St and update it to reflect the current proposal.

Small Subdivision is requested to subdivide 15,000 sq. ft of the 999 3rd St site from the greater 133,099 sq. ft lot, to accommodate the Whistlestop component of the project

Sign Program amendment to modify the existing Sign Program for the San Rafael Corporate Center campus to add the new signs associated with the BioMarin buildings

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

- Expansion of the existing Planned Development (PD) zoning designation that applies to the SRCC to encompass the 999 3rd St. property. Within the expanded PD, BioMarin is requesting a General Plan amendment to allow for a new FAR/development intensity to govern the entire SRCC as one project site.
- 15,000 sq. ft. of the 999 3rd Street property will be allocated to Whistlestop/EDEN Housing project in the northwest corner of the subject property for development of a senior center and senior affordable housing in a six-story building which includes a Healthy Aging Campus on the first and second floors (approx. 18,000 sq. ft.) and 67 affordable residential units on the third through sixth floors.
- The remaining 118,100 sq. ft. of the site will be developed as an extension of the Bio Marin campus that is currently located at the SRCC. Bio Marin proposes to develop a total of approximately 207,000 sq. ft. of laboratory/research and development (R&D) and office space (split about equally between the two uses) in two, 72-ft tall, four-story buildings. The ground floor will also house amenities to support the BioMarin campus, which may include: lobbies, an auditorium, conference rooms, a small cafe, and dining space. A useable roof top deck (above the ground floor between the two buildings) is proposed for employee use as noted in the concept drawing package.
- As part of the amended SRCC PD, BioMarin is requesting a height bonus of 1820-ft (above the 54-ft maximum) for the 999 3rd Street property to allow construction of research laboratory buildings. As laboratory buildings require additional floor to floor space to support the required infrastructure, BioMarin is seeking the minimum required additional height for this development. BioMarin is requesting the height bonus pursuant to the provision of land for senior housing and a community facility (e.g. senior center, 10,000 sq. ft. or more in size), a privately-owned public plaza (5,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and the donation of funds for development of bike lanes in accordance with Section 14.16.190 of the Zoning Ordinance.
- The Whistlestop/EDEN Housing portion of the project would include a requested 4-ft height increase as a concession consistent with the State Density Bonus Law.
- The Whistlestop/EDEN Housing project is requesting three concessions under the State Density Bonus law pursuant to providing at least 30% affordable housing. The project requests the following two concessions:
 - Increased Density bonus to allow up to 67 units (Where 25 units is the maximum allowed by 2/3 MUE zoning for the 15,000 sq. ft site;
 - Increased height from allowed 66' to 70'.
- Whistlestop/EDEN Housing is proposing no on-site parking for residents of the senior housing portion of the development. Pursuant to California Government Code Section 65915 (e)(1) and (2), the request to reduce on-site parking to one space is an additional development standard reduction.
- Overall site parking at ratios appropriate to the proposed uses. Parking ratios for specific uses, such as R&D laboratories, are not specified in the Zoning Ordinance. Proposed parking ratios will be based on industry standards and utilization surveys and evaluated through the PD rezoning and Use Permit, as discussed below.

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New BioMarin R&D Buildings:

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

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

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

The proposed buildings are located within the 2/3 MUE District and has a mandated building height limit of 54-ft for the primary structure as measured by 1997 UBC standards. The preliminary design includes extra tall floorplates of 17-ft to accommodate the specific needs of laboratory spaces for BioMarin. Therefore, the proposed design is requesting a height extension to 72-ft. Additional architectural features including mechanical enclosures and towers are designed to extend above the 72-ft height limit to a maximum of 85-ft. This additional height is not counted in the requested height bonus. Rooftop equipment would be screened according to City of San Rafael requirements.

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

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

Parking: The R&D buildings are proposed to be constructed in two phases. After completion of Building “A”, BioMarin would provide approximately 70 parking spaces at the south side of the project site. After completion of Building “B” in Phase II, the project would include only 29 spaces located in the southwest and southeast corners of the site. The Project is within the downtown business parking district which exempts parking requirements for the first 1.0 FAR. Per the San Rafael Municipal Code Section

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14.18.040, parking requirements for laboratory uses are not specifically listed. Assuming general office use for the project site, the proposed project would require a 3.3/1000 (3.3 auto spaces to 1,000 sq. ft. of occupied space) requirement for general office. The BioMarin portion of the project would entail 207,000 sq. ft. of total R&D/lab space, but with the 1.0 FAR reduction for the Downton Parking District, would be required to provide parking for 88,901 sq. ft.

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

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

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

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

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

Item	Building Square Footage (gsf)				Parking			
	Office	Lab	Amenities	Total	Office	Lab	Amenities	Total
Parking Proposed (per 1,000 gsf)					3.0	1.5	1.0	
Required Parking								
Existing Buildings								
750 Lindero Street (Building A)	82,842	-	5,000	87,842	248	-	5	253
781 Lincoln Avenue (Building B)	71,039	-	-	71,039	213	-	-	213
770 Lindero Street (Building C)	78,360	-	5,000	83,360	235	-	5	240
790 Lindero Street (Building D)	71,919	-	-	71,919	216	-	-	216
791 Lincoln Avenue (Building E)	-	86,540	-	86,540	-	130	-	130
Future Development								
755 Lindero Street	72,396	-	-	72,396	217	-	-	217
999 3rd Street (Building A)	77,000	-	33,000	110,000	231	-	33	264
999 3rd Street (Building B)	-	97,000	-	97,000	-	146	-	146
Subtotal	453,556	183,540	43,000	680,096	1,360	276	43	1,679
999 3rd Street Parking Exemption ¹	(43,697)	(55,507)	(18,896)	(118,099)	(131)	(83)	(19)	(233)
Total Required Parking	409,859	128,033	24,104	561,996	1,229	193	24	1,446
Parking Supply²								
Existing Parking								1,346
755 Lindero Surface Lot ³								(68)
788 Lincoln Garage (Phase II)								256
788 Lincoln Surface Lot								26
999 3rd Street Surface Lot ⁴								29
Total Parking Supply								1,589
Parking Surplus								143
Notes:								
1. Downtown Parking District exempts first 1.0 FAR from parking requirements. See Table 10 for details on calculation.								
2. Far calculations of existing parking supply, see Table 6.								
3. As a result of the construction of the office building at 755 Lindero, existing parking is reduced by 68 spaces, leaving 185 surface lot parking spaces.								
4. After construction of Building B on 999 3rd Street, surface parking is reduced from 75 spaces to 29 spaces.								

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

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

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

Whistlestop Senior Center / EDEN Senior Housing

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

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

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

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

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

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

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

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

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

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

ANALYSIS

General Plan 2020 Consistency:

The General Plan land use designation for the project site is Second/Third Street Mixed Use (2/3 MU). The 2/3 MU designation allows office and office-support service uses, and residential as part of mixed-use development. The proposed senior residential use, with the senior center as an office-support service, would therefore be consistent with Land Use Policy LU-23 (Land Use Map and Categories). Recent BioMarin projects at the SRCC classified laboratory uses as research and development and included it as part of the master Use Permit for the entire SRCC campus. As discussed below, laboratory uses are conditionally allowed in the 2/3 MU Zoning District, so this use is consistent with the current zoning. However, to accommodate the FAR, parking, and height considerations for the proposed project, amendment would be required: a PD Amendment, a General Plan Amendment, and a Zoning text Amendment to allow for the use on the subject property.

The FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the FAR modification and Height Bonus for the subject property. Staff finds that the proposed amendment to the General Plan will not be in potential conflict with San Rafael General Plan 2020 Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (*Planned Development*), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development.

However, as analyzed by the Project EIR, the proposed project is in conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project. As set forth in the CEQA findings for this project, the analysis has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue. The City, however, has determined that deviations from these policies, including Policies LU-2 and C-5 are warranted. Specifically, Policy C-5 allows the City to approve projects that exceed the level of service (LOS) standards if it finds that the benefits of the project to the community outweigh the resulting traffic impacts. The project, therefore, meets the traffic standards set forth in the San Rafael General Plan 2020. Further, because the project meets the traffic standards set forth in Policy C-5, and other infrastructure such as water and sewer are in place, the project is consistent with Policies LU-2. As explained in the EIR, per CEQA Guidelines Section 15063, in order to adopt the proposed amendment to the San Rafael General Plan 2020, the City must weigh the benefits of the project against the unavoidable, adverse environmental (traffic) effects of the project and adopt a statement of overriding consideration. Similar findings are required by San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which permits the City to approve a project that exceeds the LOS standards if the City finds that the project's benefits to the community outweigh the project's traffic impacts.

The project's consistency with the General Plan is evaluated in the General Plan Consistency table attached at Exhibit 3 at the end of this staff report.

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BioMarin Component

Height - As proposed, the BioMarin portion of the project would not be in accordance with Land Use Policy LU-13 (Height Bonuses) with the granting of a concession under the State Density Bonus law as it technically does not include housing within the R&D buildings. Furthermore, the proposed height increase is greater than the allowed 12-ft extension. Staff has determined that a General Plan Map and Zoning Text Amendment is required to allow for the greater height. This would include a new maximum height bonus of 20-ft, plus a text provision that would allow for the bonus (see proposed General Plan Exhibit 10 below).

Location	Maximum Height Bonus	Amenity (May provide one or more of the following)
Fourth Street Retail Core Zoning District	12 feet	Affordable housing Public courtyards, plazas and/or passageways (consistent with Downtown Design Guidelines) Public parking (not facing Fourth Street)
PG&E site in the Lindaro Office land use district	24 feet	Park (privately maintained park with public access, adjacent to Mahon Creek; an alternative is tennis courts tied to Albert Park.) Community facility (10,000 sq. ft. or more in size)
Second/Third Mixed Use East Zoning District	12 feet	Affordable housing Public parking Overhead crosswalks Mid-block passageways between Fourth Street and parking on Third Street
<u>999 Third St</u>	<u>20 feet</u>	<u>Affordable housing (minimum 60 units)</u> <u>Privately owned public plaza (5,000 sq. ft. or more in size)</u> <u>Community facility (e.g. senior center, 10,000 sq. ft. or more in size)</u> <u>Pedestrian crossing safety improvements at adjacent intersections</u> <u>Donation of funds for development of bike lanes</u>
Second/Third Mixed Use West District, north of Third Street and east of C Street	18 feet	Public parking
West End Village	6 feet	Affordable housing Public parking Public passageways (consistent with Downtown Design Guidelines)
Lincoln Avenue between Hammondale and Mission Avenue	12 feet	Affordable Housing See NH-120 (Lincoln Avenue)
Marin Square	12 feet	Affordable housing

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North San Rafael Town Center	24 feet	Affordable housing
Citywide where allowed by zoning.	12 feet	Hotel (1)

This provision would be the fact that BioMarin is providing a development space for the Whistlestop/EDEN Housing project and serving a public benefit though facilitating the relocation of Whistlestop in addition to other public benefits for open space and pedestrian amenities. By providing the space for Whistlestop, BioMarin is giving up a portion of the site in which they could build. In addition, the proposed building is a Research and Development (R&D) building for BioMarin, which has greater height needs to accommodate the mechanical equipment necessary for a laboratory/R&D space.

The proposed BioMarin project would comply with the General Plan because the required public benefits would all be provided by the project applicant, most notably the donation of the project site for affordable housing and public spaces. As the proposed General Plan Amendment is specific to the 999 3rd Street parcel, there would be no potential for other properties in the downtown to also qualify for the 20-ft height bonus. However, a future project could theoretically renovate the project site and qualify for the same height bonus provided these benefits were also included in any future project.

Floor Area Limits (FAR) - Furthermore, in order to allow for the larger development FAR, an additional General Plan Amendment would be required to change the maximum FAR for the project site to accommodate the total development. The rationale behind the increased FAR is that BioMarin is facilitating the relocation of Whistlestop and giving up a portion of their site to accommodate the Whistlestop project. The [General Plan land use element](#) includes Policy LU-9 regulating floor area ratio (FAR) (Intensity of Non-residential Development) and Exhibit 6, which depicts the appropriate FAR for downtown properties. The maximum FAR for the subject property is 1.50 for this area of downtown San Rafael. At 133,099 sq. ft size property, the project would carry a maximum development intensity of 199,649 sq. ft. As proposed, the project includes 207,000 sq. ft. for the two BioMarin buildings and an additional 18,000 sq. ft. for the Whistlestop Senior Center (the three floors of residential units are not counted as FAR). The Whistlestop development of 18,000 sq. ft. on 15,000 sq. ft. parcel results in a 1.20 FAR and would be consistent with the existing maximum FAR. However, as proposed, the remaining 118,099 sq. ft. for the BioMarin portion of the project is 25,351.50 sq. ft. over the maximum 1.50 FAR allowed for the property.

BioMarin is requesting that the two R&D buildings, on the remaining 118,099 sq. ft. of the property, be rezoned to be included as part of the Planned Development District for larger SRCC campus property. Currently, the SRCC campus has a land area of 676,923 sq. ft. with a maximum FAR of 0.75, or 507,692 sq. ft. of FAR allowed. The SRCC has existing entitlements for 473,096 sq. ft. of total development. Therefore, the applicant is proposing to add the 118,099 sq. ft. of 999 3rd St to the overall 676,923 sq. ft. of the SRCC for a total land area of 795,022 sq. ft. Therefore, the proposed project would require a Map amendment based on the following:

Proposed Blended FAR Rate

The applicant is proposing a blended rate to allow the requested 207,000 sq. ft. on 999 3rd St. while still retaining the development potential of the SRCC parcels (507,000 sq. ft.). Added together, the total development would be 714,000 sq. ft. (or a 0.89 FAR for all BioMarin owned parcels). Staff has suggested this FAR ratio be rounded up to 0.90 to be consistent with other FAR designations in the City. As such, the following breakdown would be allocated to all parcels:

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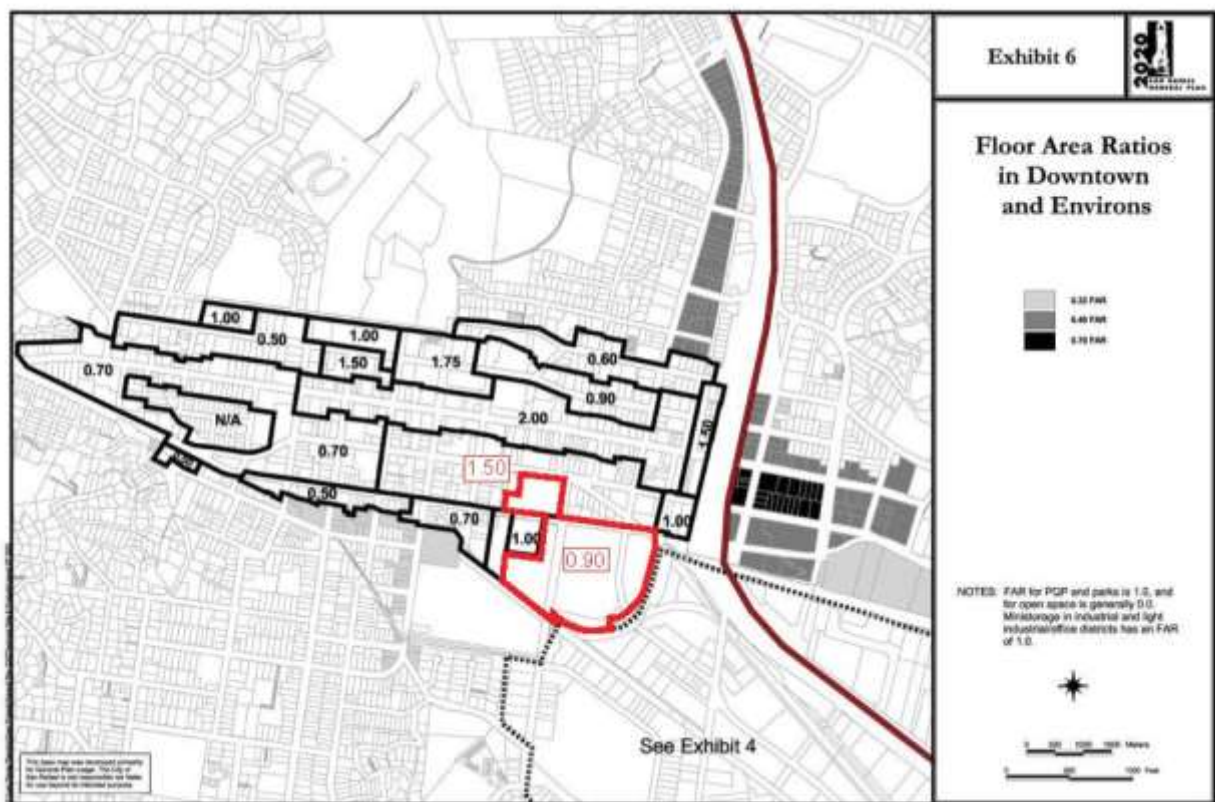
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	Land Area	FAR Allowed (Current Rules)	FAR Allowed (Proposed Blended rate)
SRCC site	676,922 sq. ft.	507,692 sq. ft. (0.75 FAR)	609,230 sq. ft. (0.90 FAR)
BioMarin portion of 999 3rd St	118,099 sq. ft.	177,149 sq. ft. (1.5 FAR)	106,289 sq. ft. (0.90 FAR)
Total	795,021 sq. ft.	684,841 sq. ft.	715,519 sq. ft.
Net difference			+ 30,678 sq. ft. increase above current allowance

The applicant is thus requesting a total development of 715,519 sq. ft. for the new SRCC PD. which will create additional development potential of the current SRCC PD of 30,678 sq. ft. more than the current General Plan allows.

Accordingly, staff has identified the potential development control to create consistency for the project: a General Plan amendment to modify Exhibit 6 in the Land Use Element to create a new FAR for the total revised SRCC campus. Staff has determined that BioMarin has provided a development area for the Whistlestop / EDEN Housing project, which could be considered a significant public and community benefit. The proposed modified Exhibit 6 is shown below (new SRCC boundary in red):



Whistlestop Component

The proposed Whistlestop portion of the project would also not be in accordance with Land Use Policy LU-13 (Height Bonuses), however, the Whistlestop portion of the project can achieve height with the granting of a concession under the State Density Bonus law. The proposed Whistlestop/EDEN portion includes a residential use, with the senior center as an office-support service, would be consistent with Land Use Policy LU-23 (*Land Use Map and Categories*). The proposed Whistlestop/EDEN portion of the project would technically exceed the height bonus for affordable housing afforded for this site per Land

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Use Policy LU-13 (*Height Bonuses*) because the project height is four feet greater than allowed via the 12 ft. bonus afforded to affordable housing projects. Therefore, Whistlestop/EDEN is requesting a major concession to allow a 16 ft. height bonus (4 ft. above the height bonus identified in General Plan) to make the 100% affordable housing project economically viable. This project also would exceed Housing Policy H-18 (*Inclusionary Housing Requirements*) by providing 100% affordable housing units or 67 units.

Zoning Ordinance Consistency:

Chapter 5 – Commercial and Office Districts

The project site is located within the Second/Third St. Mixed Use East (2/3 MUE) District, a Downtown zoning district. The proposed project will require consistency with the property development standards for the 2/3 MUE District, including maximum density (600 sq. ft. of lot area/unit), building height (54-ft + 16-ft height bonus) and parking requirements (0.75 spaces / unit). Those property development standards applicable to the project are identified in the Property Facts summary above. Overall, the site would be developed with many uses, including a senior center, general office and research and development uses.

BioMarin Component

As proposed, it appears that the applicant may be requesting to rezone the BioMarin portion of the site to Planned Development and combine it with the current Planned Development District for the SRCC campus and that the Whistlestop portion would remain under the conventional zoning of 2/3 MUE

Whistlestop Component

As designed, the Whistlestop portion of project would comply with the maximum density and height standards for the 2/3 MUE District with a 12-ft height bonus and concessions under the State Density Bonus law for a height bonus and a density bonus above the 35% allowed and as allowed per SRMC Section 14.16.030(H)(2). (see discussion below).

The project would be consistent with Section 14.05.022 of the Zoning Ordinance, which allows residential uses in the 2/3 MUE District as part of mixed-use projects.

Chapter 16 – Site and Use Regulations - Affordable Housing and Density Bonus Requirement

BioMarin Component

The BioMarin component of the project would be required to comply with the inclusionary housing requirement for non-residential development. The Zoning Ordinance includes a category and affordable housing requirement for office or Research and Development uses, however, given that the traffic study and employee calculations for the project used in the EIR demonstrate that the two buildings would effectively be used by the same employees (ie engineers would have an office space in one building, but then do their laboratory work in the other building), staff has recommended that it is more equitable and appropriate to use a different category to establish the affordable housing requirement. [SRMC 14.16.030.I.2](#) prescribes the process and standards and also allows the Community Development Director to determine the number of affordable employees based on comparable employee densities. Therefore, based on the employment densities proposed in these new buildings, the standard used to determine the number of affordable units is 0.01625/1,000 sq. ft. of gross floor area. For this particular project, that would result in the requirement for 3.36 affordable units to be provided by the 207,000 sq. ft. of new building ($207 * .01625 = 3.36$ affordable units). The current in-lieu fee for one affordable unit is \$343,969.47, therefore the in-lieu fee amount that would be required is \$1,155,737.42

Whistlestop Component

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.

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The entire 999 3rd St site, 133,099 sq. ft. property would be allowed up to 221 units (based on the 1 unit/600 sq. ft. land area), however since the Whistlestop portion of the project is being subdivision into a 15,000 sq. ft. lot, the density is based on the new 15,000 sq. ft. lot. The base density for the Whistlestop site (15,000 sq. ft. lot/600 sq. ft. density standard) allows the project up to 25 units. The project proposes all 67 units as affordable and is therefore eligible for a 35% density bonus (or 8.75, rounded up to 9 bonus units). That would make the total of 34 units. However, SRMC Section 14.16.030(H)(2) allows the City the ability to grant a greater density than allowed under the State Density Bonus if a project includes more affordability than the minimum required. Given that the project proposes a 100% affordability, the project can seek the maximum allowable density bonus, plus the additional concession and density bonus (168% or 42 units) and a concession for an additional 4-ft height bonus under the State Density Bonus law.

The applicant provided a financial pro forma demonstrating that the additional density bonus results in "identifiable, financially sufficient and actual cost reductions" (underline added) to the project. This concession requesting a density bonus above the maximum allowed under the State Density Bonus law is discretionary, allows the City to review the pro forma. Given that this is a 100% affordable housing project, the pro forma clearly demonstrates that the additional units are needed to make the project economically viable, and would result in actual cost reductions

Chapter 17 – Performance Standards – Residential Uses in Commercial Districts

Whistlestop Component

Pursuant to Section [14.17.100](#) (Residential Uses in Commercial Districts) of the Zoning Ordinance, Use Permit approval is required to allow residential uses in commercial zoning districts, which is subject to performance standards. The project has been reviewed for these standards and found to be compliant, including the location, access, lighting and refuse and storage locations. In terms of the parking, a specific parking study has been presented that demonstrates that the proposed parking for the senior center and senior units as proposed, is adequate as discussed further below.

Chapter 18 – Parking Standards

BioMarin Component

Based on existing development and proposed project, there are 1,346 spaces on campus and 243 additional net new spaces that would be accommodated through a previously approved expansion of Lincoln Ave garage, for a total of 1,589 parking spaces provided on the new campus. When evaluating the parking demand for the total proposed SRCC campus the total development area as discussed above is 715,519 sq. ft. The 999 3rd Street property is located within the downtown area which allows for a parking exemption for the first 1.0 of FAR (118,099). Therefore, utilizing the existing parking rate of 3.3/1,000 sq. ft. for the whole campus (including the new buildings at 999 3rd St) the parking requirement is based on a total floor area of 597,420 sq. ft. Applying the current parking rates for the existing SRCC PD (597,420 / 3.3/1,000) the actual parking demand would be 1,971 total spaces. However, as discussed above, BioMarin has conducted a parking demand study of the existing campus and other biotech campuses and conducted research of other municipalities in the Bay Area and has concluded that a "blended" parking demand for the proposed development is more appropriate. The parking demand analysis is included in the applicant's project description (on file at the Community Development Department).

Using the new proposed parking rates, a parking ratio of 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for general office uses, 1.5 parking spaces per 1,000 GSF for laboratory/research and development uses, and 1.0 spaces per 1,000 GSF of amenity uses for the newly expanded SRCC PD District and applied to the new building and existing buildings, the demand is 1,446

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parking spaces. BioMarin is proposing a total of 1,589 parking spaces throughout the SRCC (with the majority existing in the two parking structures south of 2nd Street), resulting in a proposed "surplus" of 143 spaces based on the applicant's calculations and parking analysis.

It is important to note that the City completed the [San Rafael Downtown Parking/Wayfinding Study](#) in July 2017. The summary of that report indicated that even during times of highest use on typical weekdays and typical Saturdays, the Downtown area, as a whole, has more than enough parking to accommodate the existing demand. Although both portions of the project provide less parking than what is typically required, the results of the Wayfinding Study would support a finding that there is excess parking supply in the project area.

As proposed, the new parking rates assume that many of the existing spaces for SRCC are double counted (i.e. a lab technician/scientist who has office space but also frequently uses the lab). Parking for a campus of this size, with a worldwide footprint and Transportation Demand Management Plan, does not result in all employees being present on campus at all times. Most of the parking for the SRCC is on the main campus, which would require users of 999 3rd Street to cross 2nd Street. The proposed parking for the BioMarin component has been reviewed by the Department of Public Works and planning staff and found to be appropriate for the entire campus and use of the site as a single tenant. Finally, as discussed above, BioMarin is required to include a contingency as part of the new PD District in the event that the property is opened up to multiple tenants or a change of use.

Whistlestop Component

The Whistlestop portion of the project includes 12 total spaces, 11 spaces for the senior center, and one space for the on-site residential manager. The City of San Rafael calculates parking requirement based on amount of floor area for the commercial component, and by unit for the residential component. The Whistlestop proposal includes 18,000 sq. ft. for the senior center. Based on requirements in the SRMC Section 14.18.040, the senior center would require 3.3 spaces / 1,000 sq. ft. However, the project site is within the Downtown Parking District which discounts 1.0 FAR (or 15,000 sq. ft). Therefore, the Whistlestop project would only be required to provide 10 total spaces.

Pursuant to SRMC Section 14.18.040, senior housing is required to provide 0.75 spaces per unit for a total of 40 spaces, or as specified by a parking study and Use Permit). The project is requesting a development standard concession and a parking reduction as part of the formal application because residents of the senior housing do not own cars and would not be active drivers. Furthermore, because the project is located in the downtown parking district, visitor parking is adjacent at public lots and street parking is readily available.

The amount of parking for the Whistlestop component has been reviewed by Department of Public Works and planning staff and found to be adequate for the site and use of the site as a senior center with senior housing.

Chapter 22 – Use Permits

BioMarin Component

As discussed earlier in staff's report, the project will require Master Use Permit approval to allow the BioMarin component of this site, to be combined into the Planned Development District and master Use Permit for the main San Rafael Corporate Center: The Master Use Permit provides more specificity on the mixture of uses, intensity of uses and parking requirements for the proposed new BioMarin campus, including the 999 3rd St Site.

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Findings to grant the use permit can be made, given the analysis throughout this report and have been provided in Draft Resolution approving recommending approval of the planning entitlements Exhibit 2g (at the end of this staff report)

Whistlestop Component

The residential component of the Whistlestop project meets the performance standards listed above and therefore findings to grant the Use Permit for residential use in commercial District have been made in Exhibit 2g (at the end of this staff report)

Chapter 25 – Environmental and Design Review Permit

This project would require Environmental and Design Review Permit approval by the Planning Commission (Commission), given that; it proposes to construct two new R&D (office) buildings and a new multifamily residential structure. However, the City Council will have final decision on the project, based on the recommendations of both the Board and the Commission, due to the General Plan and Zoning Amendments and the concessions requested (additional 42-unit density bonus and 4-ft height bonus) under the State Density Bonus law.

The pertinent review criteria for Environmental and Design Review Permits, pursuant to Section 14.25.050 (Review Criteria; Environmental and Design Review Permits), are as follows:

- *Site Design.* Proposed structures and site development should relate to the existing development in the vicinity. The development should have good vehicular and pedestrian circulation and access. Safe and convenient parking areas should be designed to provide easy access to building entrances. The traffic capacity of adjoining streets must be considered. Major views of the San Pablo Bay, wetlands, bay frontage, the Canal, Mt. Tamalpais and the hills should be preserved and enhanced from public streets and public vantage points. In addition, respect views of St. Raphael's Church up "A" Street.
- *Architecture.* The project architecture should be harmoniously integrated in relation to the architecture in the vicinity in terms of colors and materials, scale and building design. The design should be sensitive to and compatible with historic and architecturally significant buildings in the vicinity. Design elements and approaches which are encouraged include: a) creation of interest in the building elevation; b) pedestrian-oriented design in appropriate locations; c) energy-efficient design; d) provision of a sense of entry; e) variation in building placement and height; and f) equal attention to design given to all facades in sensitive location.
- *Materials and colors.* Exterior finishes should be consistent with the context of the surrounding area. Color selection shall coordinate with the predominant colors and values of the surrounding landscape and architecture. High-quality building materials are required. Natural materials and colors in the earth tone and wood tone range are generally preferred. Concrete surfaces should be colored, textured, sculptured, and/or patterned to serve design as well as a structural function.
- *Walls, Fences and Screening.* Walls, fences and screening shall be used to screen parking and loading areas, refuse collection areas and mechanical equipment from view. Screening of mechanical equipment shall be designed as an integrated architectural component of the building and the landscape. Utility meters and transformers shall be incorporated into the overall project design.
- *Landscape Design.* Landscaping shall be designed as an integral enhancement of the site and existing tree shall be preserved as much as possible. Water-conserving landscape design shall be required. A landscaped berm around the perimeter of parking areas is encouraged. Smaller

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scale, seasonal color street trees should be proposed along pedestrian-oriented streets while high-canopy, traffic-tolerant trees should be proposed for primary vehicular circulation streets.

The review criteria for Environmental and Design Review Permits require that the proposed design (architecture, form, scale, materials and color, etc.) of all new development 'relate' to the predominant design or 'character-defining' design elements existing in the vicinity. The project design would create a signature design, along a major arterial corridor in the heart of Downtown. The proposed BioMarin building would create a major architectural entry statement at a key intersection, with a plaza/front porch feature, unique and high-quality architectural materials. The proposed Whistlestop building provides a well design building, with adequate articulation, setback and stepbacks, to minimize perceived bulk and mass. The design of both components of the project were previously reviewed in detail by the Design Review Board and modifications were recommended and made to address DRB comments and the design has been further improved through these modifications The DRB ultimately found that the design, architecture and site planning was appropriate, well designed and the DRB recommended approval of the project design.

San Rafael 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. Overall, staff has reviewed the proposed project for compliance with the non-residential design guidelines, and finds that the project generally conforms to the Design Guidelines. Planning staff requests the Board's guidance in evaluating the project for consistency with the following applicable Downtown Design Guidelines:

Second/Third and Environs

Second and Third Streets are to be attractive, landscaped major transportation corridors. While increased pedestrian safety and comfort is desired on Second and Third, greater pedestrian use of the cross streets is encouraged. The project site is located within the boundaries of the Second/Third and Environs area of the Downtown, where the following specific design guidelines apply:

- To provide visual interest, long and monotonous walls should be avoided.
- Building walls should be articulated;
- To create a boulevard effect along Second and Third Streets, varied landscape setbacks are appropriate;
- Additional high-canopy, traffic-tolerant street trees are strongly encouraged;
- Where possible, residential buildings in this area should orient to the more pedestrian-friendly side street; and
- Driveway cuts and widths should be minimized to prevent vehicular conflicts.

Downtown Vision.

- The proposed project should be consistent with as many of the applicable policies in the adopted Our Vision of Downtown San Rafael; Second/Third Corridor Vision, including:
- Capitalize on the proximity to the freeway, Transportation Center and vitality of the Lindero District, in the area east of B Street with housing in mixed use projects with ground-floor retail uses to support the needs of the residents and surrounding office uses.
- Make Second and Third Street more attractive and safe for pedestrians by: A) Planting for street trees; B) creating a visual buffer between pedestrians and the street; and C) Reducing the number of driveways which interrupt sidewalks.
- Encourage safe and efficient auto transportation to and through the Downtown on Second and Third Streets and respect the needs of pedestrians. Second and Third Streets are the county access streets.

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- Vary building heights and densities, concentrating the most intense development towards the east, closest to the freeway and Transportation Center, including building heights of two to five stories and higher densities east of B Street and heights of one to three stories and lower densities west of B Street

The proposed project would be consistent with most of the applicable policies in the Downtown Vision document. The review criteria for Environmental and Design Review Permits require that the proposed design (architecture, form, scale, materials and color, etc.) of all new development 'relate' to the predominant design or 'character-defining' design elements existing in the vicinity. The DRB reviewed the project and determined that the project design is consistent with the applicable San Rafael Design Guidelines.

Development Agreement:

State planning law authorizes cities to engage into binding agreements with property owners of allowing and vesting development right for property. The City has established it's own procedures and requirements for Development Agreements (DA), which are outlined in City Council Resolution No. 6089. Because a DA allows a legal vesting of development rights, it provides the City the opportunity to request and negotiate improvements that would not normally be allowed or required through the typical development review process. A DA can vest City approval for up to 10 years.

DA's are legislative act, and therefore requires ultimate adoption of an Ordinance by the City Council, following review and recommendation that the DA is consistent with the General Plan. Action on a DA is also subject to CEQA.

The original development of the San Rafael Corporate center in the late 1990's included a DA which established 1) 10-year term on the approvals, and 2) height bonus for some of the buildings in the campus. The additional amenities obtained through the DA included provision of a conference room accessible to the public, Mahon Park, street widening, and other enhancements. Over the next 10 years, ownership of the SRCC campus changed multiple times and the DA was amended two times. Between 2004 and 2013, the approved project was built-out in phases, and the SRCC is now composed to five (5) buildings (four office and one lab) totaling 400,700 sq. ft. with two parking structures.

BioMarin has requested a DA for this project. The primary purpose of the requested DA is to establish a longer timeframe to maintain their planning approvals. Rather than the typical 2 years granted for planning entitlements, BioMarin is requesting a 10-year term. The reason for this request is that BioMarin does not have the need to build the two additional buildings, but in order to facilitate the Whistlestop component of the project and facilitate the moving of the Whistlestop/EDEN project form the previously proposed location at 930 Tamalpais to another site, they had agreed to submit their development plans in conjunction with Whistlestop, but are requesting a 10 year term to build out their component of the project.

The specific term sheet for the DA is included as part of Exhibit 2f, but in summary, the DA requests the terms and offers the following public benefits.

Terms Requested

- 10-year timeframe to vest their approval and build their portion of the project
- Freezing of impact fees at current rates.
- Removal of a prior requirement from an earlier approval that requires a new path be provided from Lincoln Ave to 2nd St, along the back side of the Lincoln Ave garage.
- Relocation of the conferences rooms that are available to the public after hours from their current location (750 Lindaro building) to one of the new main building at 999 3rd St, once built. The conf

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rooms would be of equal size and functionality and operate under the same rules for public use as now.

- Continued public use of park along Mahon Creek, behind 750 Lindaro St and 781 Lincoln Ave, as required by original Development Agreement for construction of San Rafael Corporate Center.

Public Benefits Offered

- Donation of \$1.2 million to Whistlestop through 1) Providing Whistlestop a 15,000 sq. ft. lot on a portion of the 999 3rd St site; and 2) BioMarin acquiring Whistlestop's corporation yard on Lindaro St. The net exchange results in a \$1.2 million donation towards Whistlestop.
- Remediation of 999 3rd St site to allow for residential use which will cost BioMarin \$16 million to complete, and \$2 million of which is BioMarin's out of pocket costs.
- Provision of a public plaza front porch in front of the new building at 999 3rd St.
- Provision of 3,500 sq ft retail space in new building at 999 3rd St.
- \$400,000 contribution to City toward 1st last mile initiatives, or for other traffic/circulation/parking improvement measures as determined by the City. (1st/last mile relates to transit options or other bicycle/pedestrian improvements to get people to and from the transit station to work, for commuters who take the bus or train).
- \$500,000 contribution toward synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/ parking improvement measures as determined by the City.
- Addition of class II bike lane along Lindaro, From Anderson Dr to 3rd St.
- Improvement of intersection of 2nd St//Lindaro.
- Allow city to use 70% of the BioMarin portion of the 999 3d St site for public parking and ancillary uses until such time as construction begins on the two BioMarin buildings.
- Certain commitments if the two new buildings are not built within certain timeframes within the 10-year Development Agreement term.

Executive City staff has met and conferred with the BioMarin team to negotiate a draft DA. Furthermore, the City Council appointed a sub committee of two members (Mayor Phillips and Councilmember McCullough) to further negotiate the draft terms of the DA. Based on these negotiations, staff recommends that the DA provides an adequate offer of public benefit to offset the extended 10-year term to freeze the entitlements and recommends approval of the DA.

The proposed public benefit package included in the DA, also contemplates and accounts for the public benefits required for the City to grant a Statement of Overriding Considerations to significant, unavoidable impacts identified in the DEIR, as well as the public benefits needed for the City to grant Exception to the LOS standards in the General Plan and the General Plan amendments to height bonus and FAR

DESIGN REVIEW BOARD RECOMMENDATION

The Design Review Board (DRB) has reviewed this project on three (3) separate meetings; once as a pre-application design (February 6, 2018) and two times as a formal Design Review (June 18, 2019 and August 21, 2019).

On [February 6, 2018](#), the Board (*Commissioner Lubamersky as PC liaison*) reviewed the proposed conceptual project and was generally supportive of the conceptual designs including the bulk, mass, height and design aesthetic and provided comments for the applicants to consider prior to the formal application. In general, the Board was receptive to the overall project, and even suggested allowing for

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additional height of the senior residential in exchange for additional units and the required setbacks to street frontages. The BioMarin architecture was well received with minor suggested tweaks.

The applicant refined the project design to address prior comments and submitted their formal applications. The Board reviewed the formal applications for this project at a regular meeting on [June 18, 2019](#) (*former Commissioner Robertson as PC liaison*). The Board was in general agreement for the majority of the design elements. As with previous review of the project design, the Board was in general agreement of the overall project design, but requested some minor changes to the Whistlestop/EDEN Housing fenestration and upper story articulation. The Board also requested minor changes to the Lindaro/3rd Street corner of the BioMarin project, suggesting improved landscaping, pedestrian access and other minor edits to the architecture. The Board preliminarily recommended approval of the project pending a consent calendar return to the Board for final approval.

Finally, the project was referred to the Board as a consent calendar item on [August 20, 2019](#) (*Commissioner Schoppert as PC liaison*) for its final recommendation to the Planning Commission on the proposed site and building design revisions. The proposed revisions to building facades were deemed in keeping with Board suggestions and are consistent with the overall site plan and proposed project. Similarly, the proposed landscaping revisions for the project were deemed consistent with the overall landscape plan for the project site.

Therefore, the DRB has completed the review and ultimately recommended approval of the project design. The review by the DRB has resulted in refinements to both the BioMarin and Whistlestop buildings and the site improvements and landscaping to better the project.

ENVIRONMENTAL DETERMINATION

This hearing is for the Commission to complete their review and provide their recommendation on the project to the City Council. The CEQA process has been completed and as part of the Commission's consideration of the requested entitlements, the Commission will also be considering whether to recommend to the Council certification of the Final EIR. The following outlines the CEQA process that has been completed for this project.

Notice of Preparation (NOP):

On February 8, 2019, a Notice of Preparation (NOP) was mailed and published for a 30-day public review and comment period, consistent with the CEQA Guidelines. On [March 12, 2019](#), the Commission held a scoping meeting during the 30-day comment period to hear public comment on the scope of the Draft Environmental Impact Report (DEIR). The purpose of the DEIR is to identify potential impacts to various environmental topics and analyze the extent to which the project design and alternatives would result in significant environmental impacts and will identify appropriate project modifications or mitigation measures to reduce or eliminate these impacts. Issues that were determined to be examined include the following: *Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, cumulative effects and a reasonable range of alternatives.*

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

Growth inducement would be addressed as its own topic in the DEIR. Verbal comments were accepted at the NOP scoping meeting, and were combined with submitted written comments. The Commission

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ultimately voted 7-0 (Motion by Commissioner Schoppert/Second by Commissioner Schaefer) to direct staff to prepare the DEIR with the additional topic areas identified by the Commission.

Notice of Completion (NOC) and Publication of DEIR:

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

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

Pursuant to the CEQA-mandated 45-day public review period from receipt of the NOC, the City accepted written comments on the DEIR until the Commission hearing on [September 24, 2019](#). Verbal comments were also be accepted at the Commission meeting, although the public was encouraged to submit comments in written format so that they can be accurately and adequately responded to in the Final EIR.

Draft DEIR Summary and Conclusions:

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

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

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

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

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Air Quality

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

Recommended Mitigation Measures for Air Quality

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

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

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

Cultural Resources

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

Recommended Mitigation Measures for Cultural Resources

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

Mitigation Measure CULT-1: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications

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

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Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.

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

“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

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

Geology and Soils

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

Recommended Mitigation Measures for Geology and Soils

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

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

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

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

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

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

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

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

Hazards and Hazardous Materials

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

Recommended Mitigation Measures for Hazards and Hazardous Materials

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

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

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

Hydrology and Water Quality

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

Recommended Mitigation Measures for Hydrology and Water Quality

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

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

Mitigation Measure HYDRO-2: *The project applicant shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to*

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individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.

Land Use and Planning

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

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

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

Noise

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

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

Recommended Mitigation Measures for Noise

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

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

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

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

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

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

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

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

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

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

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

Transportation

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

Fehr & Peers estimated the amount of traffic associated with the Project by evaluating intersections, roadway segments and operations on Highway 101. Thirty-six intersections were studied in the Transportation Impact Study. Existing weekday AM (7am - 9am) peak hours and PM (4pm – 6pm) peak hour traffic counts and intersection service levels are provided in the Transportation Impact Study. All 36 study intersections currently operate at acceptable level of service (LOS).

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

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

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

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

Baseline and Baseline-Plus-Project Conditions

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

Cumulative and Cumulative-Plus-Project Conditions

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

Parking

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

Recommended Mitigation Measures for Transportation

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

Mitigation Measure TRANS-1 *BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15 percent reduction is identified for three consecutive years. This mitigation measure would reduce the impact to Less-than-significant.*

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

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

Mitigation Measure TRANS-7:

- *TRANS-7a: The project applicant shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.*

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- *TRANS-7b: The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways.*

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

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

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

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

Mitigation Measure TRANS-11: *Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/EDEN Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.*

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

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

Significant and Unavoidable Impacts for Transportation

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

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

Impact TRANS-3: *Project-related traffic would contribute to continued LOS E (under Baseline-Plus-Project) and LOS F (under Cumulative-Plus-Project) conditions along westbound 3rd Street between Hetherton Street and D Street during the AM peak hour, with an increase in the arterial roadway segment's volume-to-capacity (V/C) ratio of 0.067. This impact would result in a reduction in travel*

speeds that conflict with the Marin County Congestion Management Plan and San Rafael General Plan 2020 Policy C-5 (Traffic Level of Service Standards).

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

Project Alternatives:

CEQA requires that an EIR describe a range of reasonable alternatives to a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. One of the intents of the NOP and the Commission's scoping session is to help determine 'legitimate' potential alternatives to the project for discussion in the EIR. The DEIR discussed four potential alternatives to the proposed project (including the no-project alternative). The following are the primary project objectives as outlined by BioMarin and Whistlestop/EDEN Housing:

1. *Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the research and development (R&D) and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/EDEN Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.*
2. *Provision of a new location for Whistlestop's existing Healthy Aging Center and EDEN Housing's proposed senior housing that is affordable for the project and central to downtown San Rafael and public transit, and that avoids development on a site with potential historical significance that is proximate to the freeway and its associated air quality impacts.*
3. *Development of a project that will provide enhanced pedestrian experience and safety through the connection of BioMarin's existing campus and surrounding residential communities to San Rafael's downtown corridor with the use of site setbacks and landscaping along the perimeter of the project site, as well as improved sidewalks and crosswalk design.*
4. *Remediation and revitalization of a brownfield site.*
5. *Development of signature buildings in the heart of downtown San Rafael that are reflective of the history of San Rafael and its future growth.*
6. *Development of a high-quality, mixed-use building comprised of a Healthy Aging Center for Whistlestop, a non-profit organization vital to the local older adult community, that will provide services for older adults in San Rafael and the greater Marin County area in a practical and cost-effective manner; and 67 affordable rental housing units for seniors in an environmentally conscious, car-free community proximately situated to public transportation and downtown businesses.*
7. *Promotion of San Rafael's goals of encouraging alternative modes of transportation with the donation of funds to develop a bike lane on Lindero Street from 3rd Street to Andersen Drive.*
8. *Activation of 3rd Street as a vibrant downtown corridor, in parallel to and complementing 4th Street.*

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9. *Support for the continued growth and retention of BioMarin in San Rafael, which in turn provides local employment opportunities and significant economic benefits to the City and local businesses.*
10. *Support for the City of San Rafael's desire to attract and retain a growing and sophisticated work force with high-paying jobs.*
11. *Creation of transit-oriented development in line with the Downtown Station Area Plan's goals as well as the City of San Rafael's General Plan goals.*
12. *Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.*

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

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

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

Finding

The Planning Commission (1) recommends rejection of this No Project Alternative on the basis that it fails to meet basic project objectives and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- The No Project Alternative fails to meet any of the Project objectives. For instance:
 - This Alternative would not improve the site, which would remain as undeveloped.
 - No new infrastructure or traffic improvements would be included in this Alternative.
 - This Alternative would not allow Whistlestop/EDEN Housing to develop 67 units of much needed senior affordable housing.
- The No Project Alternative is also infeasible for policy reasons, as it fails to comply with the intent of the City's *General Plan 2020*, which promotes economic vitality (Policy EV-2 Seek, Retain, and Promote Businesses that Enhance San Rafael) and an overarching vision for the Downtown Area (NH-55. Design Excellence).
- From a policy and social perspective, without development of the proposed Project, redevelopment of the Project site would likely be postponed indefinitely, new laboratory and office facilities would not be created on-site, and BioMarin would be required to find an alternate location(s) for the Project. In addition, Whistlestop / EDEN Housing would not be able to build the Healthy Aging Campus as a result of this No Project Alternative, and, therefore would continue to experience the same operational loads and space challenges with regard to future modernization.

2. **Reduced Scale Alternative:** Alternative 2 would consist of a project that is similar to the proposed project but reduces the amount of overall proposed laboratory and office space of the BioMarin project, thereby reducing the anticipated peak hour traffic trips and other impacts. This alternative would reduce the overall number of employees at BioMarin from 550 to 229

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employees, or by 58.3 percent. This reduction in employees could result in the project's significant, unavoidable traffic impacts at the following locations becoming less-than-significant impacts:

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

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

Impacts

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

Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin. In addition:
 - In order to address the remaining 60% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
 - General site improvements included as part of the Project would be included in this Alternative.
 - BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space shortfall with regard to company needs.
 - BioMarin would not feasibly be able to build this Alternative, and would therefore not donate the site the Whistlestop/EDEN Housing. No Healthy Aging Campus would be developed as a result of this Alternative.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County and no

Healthy Aging Campus would be developed. Both BioMarin and Whistlestop / EDEN Housing would not be able to develop the Project in downtown San Rafael.

3. **Code-Compliant BioMarin and Off-Site Whistlestop/EDEN Housing Project Alternative:** This alternative would assume a reduced height BioMarin project that would not require General Plan amendments for FAR, height bonuses, or parking modifications;

BioMarin Project under Alternative 3

Alternative 3 would reduce the building height of the BioMarin project to 54 ft. to comply with existing General Plan provisions and zoning for the site, with no bonus exemptions and no rezoning to Planned Development for the BioMarin portion of the site. The FAR would be increased from the proposed 0.90 to 1.50, as allowed by existing General Plan provisions and zoning, allowing a total of 199,649 sq. ft. for BioMarin on the site. The FAR limit would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3 of the DEIR). This Alternative assumes a total of 220 parking spaces would be required to be provided on the site. This would be in addition to public parking that is assumed to allow the height bonus.

Whistlestop/EDEN Housing Project under Alternative 3

This alternative assumes that the Whistlestop/EDEN Housing project would be located off the project site at 930 Tamalpais Avenue, where Whistlestop is currently located. It is assumed that 41 units of affordable senior housing (one of these would be a manager's unit) would be provided in a five-story building similar to the design proposed in 2016. This project assumes residential units on the third through fifth floors and the Whistlestop Active Aging Center, with classrooms, offices, and meeting rooms on the second and third floors. The ground level would contain parking and utility uses, along with the Jackson Café. Access to transit would be available via (1) van service (Marin's Whistlestop Wheels Para Transit) with access at the ground-level garage, (2) buses at the adjacent San Rafael Transit Center, and (3) regional rail at the SMART station located at the east edge of the site. A total of 20 parking spaces would be provided in a street level garage for use by Whistlestop employees and guests.

Impacts

Alternative 3 would meet all of the project objectives as listed at the beginning of this chapter except four objectives (1, 2, 3, and 12). Alternative 3 would have reduced square footage for the BioMarin buildings and would not meet BioMarin's needs for R&D and laboratory infrastructure. The relocation of the Whistlestop/EDEN Housing project to its Tamalpais Avenue site would conflict with the second objective above. This alternative would also have fewer senior housing units and thus would conflict with the goal of providing 67 affordable rental housing units for seniors.

Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin. In addition:

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- In order to address the remaining 10% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- Whistlestop/EDEN Housing would not be able to develop the Healthy Aging Campus and would not develop 67 units of senior affordable housing.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

4. **Code-Compliant BioMarin and Whistlestop/EDEN Housing Project Alternative:** Under Alternative 4, the FAR would be increased from the proposed 0.90 to 1.50, allowing a total of 199,649 sq. ft. for both BioMarin (181,649 sq. ft.) and the non-residential portion of Whistlestop/EDEN Housing (18,000 sq. ft.). The Whistlestop/EDEN Housing project would occupy 0.34 acre of the project site under this alternative and is assumed to be approximately the same as the proposed project in scale and height, given that the height bonuses allowed by the provision of affordable housing. It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (or 23,380 sq. ft.). With 181,649 sq. ft. for BioMarin, both Buildings A and B would be four stories in height. This alternative may have reduced square footage for laboratory space.

Unlike Alternative 3, Alternative 4 is not assumed to have public parking on the site. The project site is located within the Downtown Parking District which waives parking requirements for the first 1.0 of FAR. With this alternative having an FAR of 1.50, parking required for BioMarin would be approximately 210 parking spaces. It is assumed that an eight-story parking structure of about 150 ft. by 170 ft. could be constructed on the corner of 2nd St. and Lindaro St. The parking structure height results from the fact that only 35 cars can be provided on each floor, given circulation requirements. Assuming 10 feet per floor, this parking structure would be about 60 ft. in height, or about the same size as the proposed BioMarin building height for the proposed project.

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

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

Impacts

Alternative 4 would meet most of the project objectives as listed at the beginning of this chapter except two main objectives (1 and 12). Alternative 4 would have reduced square footage for the BioMarin buildings and would not meet BioMarin's needs for R&D and laboratory infrastructure and would require a large parking structure constructed on site. Significant and Unavoidable Impacts to Land Use and Planning and Transportation would continue to exist under this Alternative

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Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin. In addition:
 - In order to address the remaining 30% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
 - BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.
 - Significant and Unavoidable Impacts to Land Use and Planning and Transportation would occur under this Alternative

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / EDEN Housing would be required to develop a problematic project at the original location with fewer units.

Environmentally Superior Alternative

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied.

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

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

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

“Development of an underutilized vacant site in close proximity to BioMarin’s existing San Rafael headquarters to accommodate BioMarin’s planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin’s planned expansion, while also

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accommodating the needs of Whistlestop/EDEN Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.”

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

Final EIR (FEIR):

The Final EIR (FEIR) provides an opportunity to respond to written comments on the DEIR for the project received during the 45-day comment period (August 9, 2019 to September 23, 2019) and oral comments provided during the September 24, 2019 Planning Commission public hearing. The FEIR also provides an opportunity to make clarifications, corrections or revisions to the DEIR, as needed, based on the comments received.

The City received six (6) written comments on the DEIR and only one individual (not including the members of the Planning Commission) provided oral comments during the comment period and the Planning Commission hearing. In addition, the FEIR includes a Mitigation Monitoring and Reporting Program (MMRP) table that incorporates the Mitigation Measures recommended in the DEIR and provides implementation methods to fulfill these requirements, and a copy of the Planning Commission staff report on the DEIR. Based on the comments provided during the public review period on the DEIR, the FEIR provides responses to these comments only.

The FEIR was prepared and released on January 10, 2020 for public review. The City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On January 10, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and all responsible and trustee agencies and written responses to mailed to all responsible, trustee and other public agencies that commented on the DEIR; A notice of availability was also published in the Marin Independent Journal on January 11, 2020. A copy of the FEIR/Response was also distributed to the Commission on January 14, 2020 and is also available at <https://www.cityofsanrafael.org/9993rd/> ([here](#))

Public Benefits and Statement of Overriding Considerations:

The Planning Commission should, in their review of the EIR, consider which, if any, alternative would be preferable to the project as proposed or which combination of alternatives and the project would best achieve the goal of reducing the identified significant adverse transportation impacts. The purpose of the DEIR is not to pass judgement or approve a project, but it is to be accompanied with the review of project merits and provide adequate information for decision makers and the public to understand potential impacts of a project and for City decision makers to make informed decisions. Given that the DEIR concludes that the project would result in significant, unavoidable impacts to Land Use and Transportation, in order to approve the project, the Commission (and ultimately the Council) would have to adopt a Statement of Overriding Considerations if choosing to approve this project. This is a finding that the Commission would have to make if they elect to approve the project).

- If a project has significant, unavoidable impacts, a City may still approve a project, but as part of the approval, the City would have to make a finding of Overriding considerations.
- A Statement of Overriding Considerations reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors).

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- Adopting a Statement of Overriding Considerations would mean that the Commission finds that on balance, the benefits of the project outweigh the significant unavoidable environmental impact(s).
- Staff will address the overall public benefit of the Project as part of the review of project merits to be presented to the Planning Commission at a later meeting.

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

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied. Given that the EIR concludes that the project would result in significant, unavoidable impacts to Transportation related to level of service impacts in the Project area, in order to approve the project, the Commission would have to adopt a Statement of Overriding Considerations (Exhibit 2b), if they elect to approve the project.

A Statement of Overriding Considerations reflects the ultimate balancing of competing public objectives (including environmental, legal, technical, social, and economic factors). Adopting a Statement of Overriding Considerations would mean that the Commission finds that on balance, the benefits of the project outweigh the significant unavoidable environmental impact(s).

The City has adopted a Statement of Overriding Considerations on three (3) recent redevelopment projects, with their public benefits listed:

- 809 B St/1212 + 1214 2nd St . (new, 41 -unit residential condominium building)
 - Downtown Housing - 41 new residential 'rental housing' units in Downtown, including six (6) affordable housing units
 - Re-activate Pedestrian Environment - The project would 're-activate' the site and a portion of B Street, both of which suffer from a degraded appearance or a degree of urban decay which seems to have the effect of dissuading owners from investing in their properties.
 - Support 'Alive-After-Five' - The project would support the General Plan's focus on the "alive-after-five" program for the Downtown (Neighborhood Policy NH-34(c) of the General Plan). The "alive-after-five" program seeks to maintain a mix of businesses and residences in the Downtown to create activity at different days and times of the week, to help keep Fourth Street active and busy after 5 p.m. The project would further this long-term goal of invigorating the Downtown with activity, primarily on weekdays after 5 p.m. and weekends, as new residents frequent the Downtown and provide economic opportunities to businesses, particularly restaurants
 - Charitable Contributions - The project would provide a one-time charitable contribution of \$25,000 to the San Rafael Fire Department, the Marin History Museum, or any group the City determines to be appropriate to help offset the loss of the two cultural resources.
- 1200 Irwin St. (formerly 524 Mission Ave.; new, 15 residential townhouse condominiums)
 - 15 new housing units to help City meet its RHNA targets, of which two (2) are BMR units affordable at low-income household level;
 - In-fill, high-density, transit-oriented, residential development near Downtown;
 - Elimination of substandard housing, elimination of multiple driveways along Mission Ave.;
 - Economically infeasible to rehabilitate;
 - Short-term construction jobs; and
 - Encourage financial investment by other property owners near Downtown.

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- 1650 Los Gamos Drive (Kaiser Medical Office Building and Parking Structure)
 - The project implements, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements
 - The project facilitated the development of an infill site in an existing urbanized area.
 - Kaiser fully funded identified intersection improvements—at an approximate cost of \$1,050,000—with no expectation of reimbursement by the City and County.
 - The project contributed to the City's local economy through new capital investment, retaining existing employees, and new construction jobs.
 - The project provides a major medical care facility to serve existing and future demand in the City of San Rafael.
 - The project implements a comprehensive environmental sustainability strategy, including complying with Title 24 (California Energy Efficiency Standards)
 - The project incorporates a TDM plan that will encourage alternate modes of transportation other than single-occupancy vehicles.

Staff finds the first and third project listed above to be most similar to the current project. These projects proposed similar public benefits to the community that are similar to the current project. The projects were approved with adopting a Statement of Overriding Considerations similar to that which is requested by this current project.

The project sponsor has submitted a Term Sheet identifying/proposing the public benefits of the project to the community (Exhibit 5). In the term sheet, the project sponsor has presented

- The project by itself, consistent with the General Plan, redevelopment of an infill property,
- Sustainable development located near transit and the freeway would generally provide enough public benefit to outweigh the impacts of the decrease in level of service and barriers to mitigation implementation.
- Furthermore, the project sponsor contends that complying with the mitigation measures and payment of the development impact fees (\$1,600,000 estimated total costs), as required by the project, in addition to the \$1.2 million donation towards Whistlestop and \$900,000 for City transportation initiatives are also public benefits to the community.

Staff recommends that the Statement of Overriding Considerations be recommended based on information in the EIR and other information in the project record. The City recognizes that implementation of the proposed project would result in significant adverse environmental impacts that cannot be avoided even with the adoption of all feasible mitigation measures. Despite the occurrence of these effects, however, the City chooses to approve the project because, in its view, the economic, social, and other benefits that the project will produce will render the significant effects acceptable.

The following statement identifies why, in the City's judgment, the benefits of the project as approved outweigh its unavoidable significant effects. Any one of these reasons is sufficient to justify approval of the project. Thus, even if a court were to conclude that not every reason is supported by substantial evidence, the City would stand by its determination that each individual reason is sufficient. The substantial evidence supporting the various benefits can be found in the preceding findings, which are incorporated by reference into this section, and into the documents found in the Record of Proceedings.

The City finds that these impacts on Land Use and Planning and Transportation would be acceptable because on balancing the benefits to be realized by approval of the project against the remaining environmental risks, the following economic, social, and other considerations outweigh the impacts and

support approval of the project. Staff recommends adoption of the Statement of Overriding Considerations, given that:

1. Furtherance of City Goals and Policies

The proposed project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The project will also support San Rafael's Objectives and Design Guidelines for the Downtown by proposing a design that provides an entry and focal point for the 2nd/3rd Street corridor, advances the "Alive After Five" policy, and allows expansion of a major downtown employer.

2. Development of an Existing Infill Site

The project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including the SMART station, and will not directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.

3. Voluntary donation of development area

BioMarin is donating the Northwestern Portion of their site to Whistlestop/EDEN housing for development of a healthy aging campus and affordable senior housing. This donation, along with a land swap to BioMarin of another property owned by Whistlestop in San Rafael yields a net donation by BioMarin of approximately \$1.2 million as of June 2018, in its then current as-is condition. This obligation shall be required prior to the issuance of any certificate of occupancy for development on the R&D Development Property.

4. Voluntary monetary contribution for Shuttle Service

BioMarin will contribute, \$400,000 (\$100,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.

5. Voluntary monetary contribution for Signal Synchronization

BioMarin will contribute \$500,000 (\$125,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City.

6. Development opportunity for Whistlestop/EDEN Housing

The remediation performed by PG&E of this site was not performed on the entire site. In addition, the level of cleanup was not such that would met the State DTSC standards for residential use of the property. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is currently conducting the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Following this cleanup, the site would be able to accommodate residential use. BioMarin shall complete such second phase of remediation prior to commencement of construction and development activities for the 999 3rd Street Project and the development of the Whistlestop component of the project.

7. Leaseback donation for Whistlestop/EDEN Housing

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BioMarin to conduct a land exchange as part of the donation of the parcel to Whistlestop/EDEN Housing. BioMarin shall donate to Whistlestop a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

8. Provide Public Meeting Space and urban open space

BioMarin provides a portion of the 999 3rd Street Project consisting of approximately 3,500 sq. ft. of retail space and approximately 6,000 sq. ft. of landscaped "front porch" plaza and located at the corner of 3rd Street and Lindaro St., shall be open to the public during daytime hours (from 9 a.m. to 5:00 p.m.).

9. Contributions to Pedestrian/Bicycle safety

BioMarin shall develop a class II bike lane on Lindaro Street from 3rd Street to Anderson Dr prior to completion of Phase I. BioMarin shall also contribute to City's enhancement of pedestrian safety by improving the sidewalks and crosswalk design at the corner of Lindaro Street and 2nd Street prior to completion of Phase I.

10. Public Parking

Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.

NEIGHBORHOOD MEETING / CORRESPONDENCE

Notice of all public hearings on the project, including the Neighborhood Meeting, have been conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was mailed to all property owners and occupants within a 500-foot radius of the project site (greater than the 300 ft required by the Ordinance), the appropriate neighborhood groups (Federation of San Rafael Neighborhoods and the Gerstle Park Neighborhood), and all other interested parties, 15 calendar days prior to the date of all meetings and hearings. Public notice was also posted on the project site, along both the 2nd and 3rd Street frontages, 15 calendar days prior to the date of all meetings and hearings (Exhibit 6)

All public correspondence on the project was received during review of the DEIR. The FEIR lists those public comments received on both the DEIR and on the project merits. Responses to comments on the DEIR were provided in the FEIR, a copy of which has been distributed to the Commission in advance. Public comments regarding the proposed Project have been received at various intervals, including comments during the DEIR review, and DRB review process.

Based on the noticing for the January 28, 2020 Planning Commission hearing and at the publishing of this staff report, no current comments have been received. Any public comments received will be compiled and delivered to the Commission prior to the public hearing.

CONCLUSION

In general, staff supports the proposed project, including the project design and the proposed General Plan and Zoning amendments. Staff supports the proposed scale of the project, primarily based on the scale of the neighboring BioMarin campus which is also within the max. allowable height limits in the General Plan and the Zoning Ordinance (54-78-ft in height and with a height bonus). The project would put needed senior housing in the core of Downtown, near services, employers and transit. Incorporating

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the Whistlestop/EDEN senior center and housing development on this site would address prior community concerns that were raised when this project was proposed on the current Whistlestop site at 930 Tamalpais Ave. In general, adding housing to downtown has been a major city policy since the mid 1990's. Staff finds the benefits of the project to the community outweigh the significant unavoidable environmental impact, the implementation timing of intersection improvements. The project merits are compelling:

- The project by itself, consistent with the General Plan, redevelopment of an infill property,
- Providing the opportunity for future growth for BioMarin, a major employer in the City of San Rafael, will provide additional employment and activity in the Downtown, which has numerous spin off effects on supporting downtown activity and businesses
- Facilitation of relocation of the previously proposed Whistlestop/EDEN Housing at 930 Tamalpais to this new site. Finding an appropriate location for a state of the art healthy aging campus (Whistlestop) and development of 67 senior units, all of which would be affordable, is a major benefit to the City.
- Voluntary construction of the intersection improvements as well as other pedestrian and bicycle improvements, and
- Sustainable development located near transit and the freeway, and
- Construction of an infrastructure need in the San Rafael General Plan 2020

Based on adopted Statement of Overriding Consideration on recent projects that resulted in traffic impacts, staff finds the proposed public benefit to be adequate for the certification of the EIR for the project, adoption of a Statement of Overriding Considerations, approval of the Mitigation Monitoring and Reporting Program (MMRP) and the approval of the planning entitlements required by the project (General Plan amendment, PD Rezoning, Zoning Text Change, Development Agreement, Environmental and Design Review Permit, Use Permit, Small Subdivision, and Sign Program Amendment).

OPTIONS

The Planning Commission has the following options

1. Adopt the Resolutions to Certify the EIR, adopt CEQA Findings of Fact and Statement of Overriding Considerations and approving the MMRP for Project Approval, and approve project applications (staff recommendation); or
2. Adopt Resolution to Certify the EIR, but direct staff to return with revised Resolutions to Deny the Statement of Overriding Considerations and Deny the project applications; or
3. Direct staff to return with revised Resolutions, to Deny Certification of the FEIR and Deny Project Applications; or
4. Continue the applications to allow the applicant to address any of the Commission's comments or concerns

EXHIBITS

1. Vicinity Map
2. Draft Resolutions recommending to the City Council
 - a. Certification of the FEIR
 - b. Adoption of CEQA Findings, a Statement of Overriding Considerations, and approval of a Mitigation Monitoring and Reporting Program (MMRP); and

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- c. Adoption General Plan Amendments to establish text and map amendment to 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd St site and 2) Amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site; and
 - d. Adoption a Zoning Text Amendment to establish new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria; and
 - e. Adoption of a PD Rezoning to modify PD 1936 District to allow for the BioMarin portion of the 999 3rd St property to be combined with existing SRCC parcels with appropriate and revised land use regulations; and
 - f. Approval a Development Agreement for the BioMarin portion of the site to vest the entitlements for a 10-year period, freeze impact fees at current rates and modify terms of the prior Development Agreement; and
 - g. Approval, with conditions, an Environmental and Design Review Permit, Master Use Permit Small Subdivision and Sign Program Amendment for the project.
3. General Plan Consistency Table
 4. Non-Residential Design Guidelines Consistency Table
 5. Applicant's Public Benefits/Development Agreement Term Sheet dated January 22, 2020
 6. Public Notice of Planning Commission hearing, January 10, 2020

11" x17" copies of the project plans have been distributed to the Planning Commission only*.

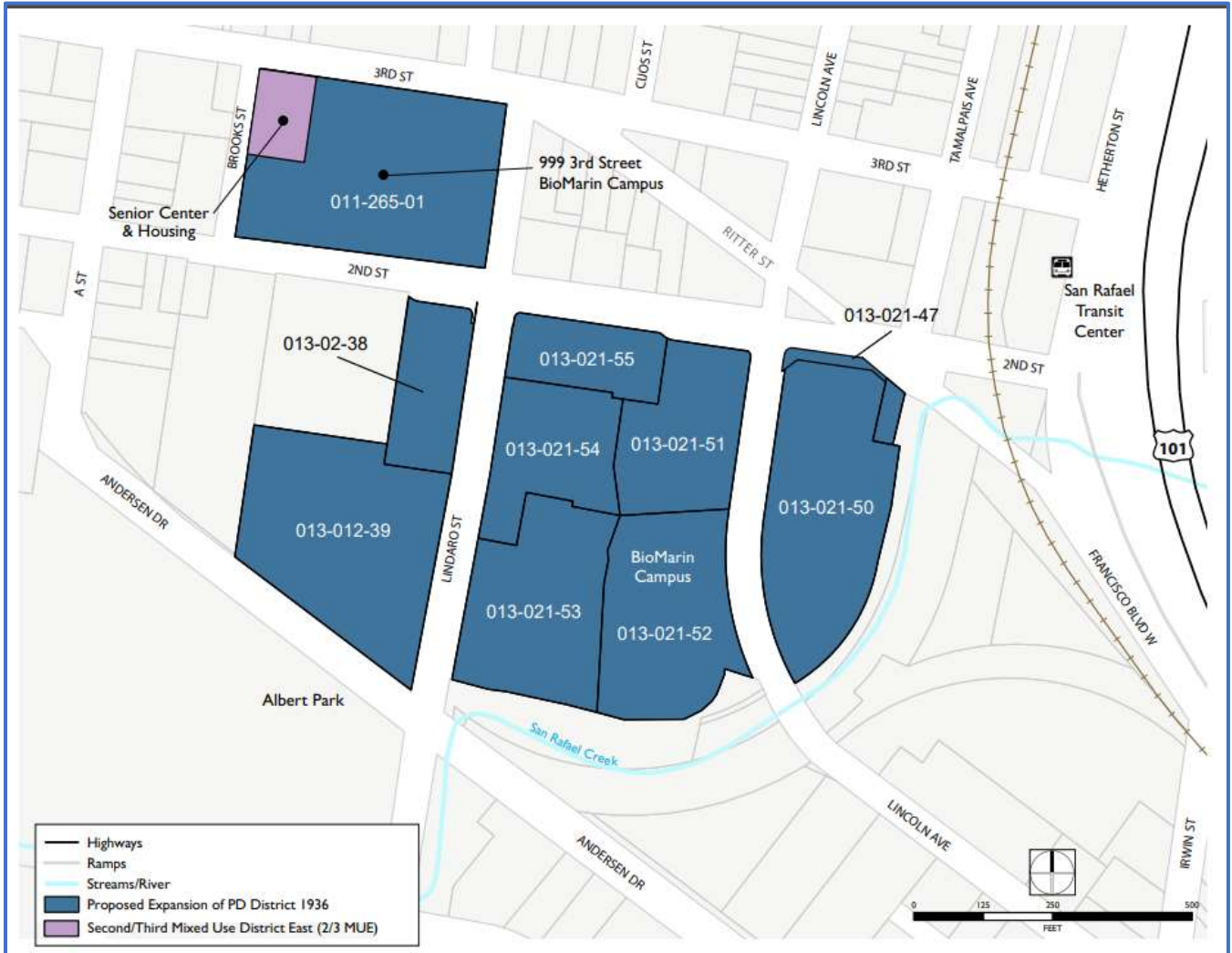
A copy of the FEIR has been previously distributed to the Planning Commission only*.

*Copies of the Final EIR (along with the DEIR) and project plans are available at

<https://www.cityofsanrafael.org/9993rd/>

Exhibit 1

Vicinity Map



RESOLUTION NO. 20-

RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) (SCH #2019029046) PREPARED FOR THE PROJECT REQUESTING A GENERAL PLAN AMENDMENT (GPA18-001), PLANNED DEVELOPMENT (PD) REZONING (ZC18-002), ZONING ORDINANCE TEXT AMENEMENT (ZO18-003), DEVELOPMENT AGREEMENT (DA19-001), MASTER USE PERMIT (UP18-034), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-087), SMALL SUBDIVISON (S18-001) AND SIGN PROGRAM AMENDMENT (SP18-006) TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS AND A 67-UNIT, 70-FOOT TALL, SIX-STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 133,099 SQ. FT. PARCEL AT 999 3rd ST AND ADJACENT SAN RAFAEL CORPORATE CENTER.

(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street.; and

WHEREAS, on February 28, 2019, in accord with Public Resources Code Sections 5097.94, 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2 and 21084.3 to specifically the directive of Assembly Bill 52 (AB 52), the Department of Community Development Department staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose an preparing a CEQA document Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in the California Public Resources Code. The prescribed 30-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, on March 12, 2019, the Planning Commission (Commission) held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). As part of this review, on September 24, 2019, the Planning Commission held a duly-noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

Exhibit 2a

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed; and

WHEREAS, on January 10, 2020, Notice of Availability for the FIER/Response to Comments, was mailed to interested persons and property owners and occupants within 500 feet of the property as well as other interested persons and organizations and responsible and trustee agencies and written responses to public agency comments were provided to agencies who commented on the DEIR. In addition, on January 11, 2020, notice of Availability was published in the Marin Independent Journal; and

WHEREAS, the City intends that the FEIR, and all applicable mitigation measures therein, shall be used as the environmental documentation required by CEQA for subsequent discretionary actions required for this project; and

WHEREAS, on January 28, 2020 the Planning Commission held a duly noticed public hearing on the FEIR/Response to comments and considered the FIER along with the project applications/entitlements; and

WHEREAS, on January 28, 2020, by adoption of a separate Resolution, the Planning Commission recommended to the City Council adoption of CEQA Findings of Fact, Adoption of Statement of Overriding Considerations and approval of the Mitigation Monitoring and Reporting Program; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolutions, recommended to the City Council 1) approval of a General Plan amendment, 2) adoption of the Planned Development (PD) Rezoning (ZC18-002), 3) adoption of Zoning Ordinance Text Amendment (ZO18-003), 4) approval of a Development Agreement (DA19-001), and 5) approval of Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission hereby certifies the Final EIR, based upon the following findings required by CEQA Guidelines Section 15090:

FINDINGS

1. The Final Environmental Impact Report (FEIR), which consists of the Draft Environmental Impact Report dated August 9, 2019, and the Response to Comments Document dated January 10, 2020 has been prepared in accordance with CEQA, including Public Resources Code Section 21083.3, and the provisions of the City of San Rafael Environmental Assessment Procedures Manual.
2. The FEIR has been prepared and completed in compliance with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual by following the appropriate format, content, technical analysis of the potential impact areas and project alternatives identified in the initially-authorized scope of work. Further, all prescribed public review

Exhibit 2a

periods and duly noticed hearings were held for the project Notice of Preparation (NOP), Notice of Completion (NOC) for public review of the DEIR and Notice of Availability following publication of the FEIR.

3. The FEIR has been prepared using the City's independent judgment and analysis, and the FEIR:
 - a) appropriately analyzes and presents conclusions on impacts;
 - b) analyzes a reasonable range of alternatives to the project that could feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any significant effect of the project; and
 - c) recommends mitigation measures to substantially lessen or avoid the otherwise significant adverse environmental impacts of the project. The findings and recommendations in the document are supported by technical studies prepared by professionals experienced in the specific areas of study.
4. The Planning Commission exercised its independent judgment in evaluating the FEIR and has considered the comments received during the public review period on the DEIR.
5. The FEIR reflects the independent judgment and analysis of the City of San Rafael Community Development Department and the Planning Commission. The Planning Commission has reviewed and considered all information contained in the FEIR prior to making its recommendation on the project, and concludes that the FEIR:
 - a) appropriately analyzes and presents conclusions on the impacts of the project;
 - b) analyzes a reasonable range of alternatives to the project that could feasibly attain most of the basic objectives of the project while avoiding or substantially lessening any significant effect of the project;
 - c) Identifies or recommends mitigation measures to substantially lessen, eliminate or avoid the otherwise significant adverse environmental impacts of the project, and
 - d) Includes findings and recommendations supported by technical studies prepared by professionals experienced in the specific areas of study, and which are contained within the document and/or made available within the project file maintained by the City of San Rafael Community Development Department, the custodian of all project documents.
6. The information contained in the FEIR is current, correct and complete for document certification. As a result of comments submitted on the DEIR, the FEIR provided responses to comments received on the DEIR and provided clarification to those comments. No new information has been added to the DEIR and does not deprive the public of meaningful opportunity to comment upon the substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project's proponents have declined to implement. In particular, no new information was presented in the FEIR and does not disclose or result in:
 - a) a new significant environmental impact resulting from the project or from a new mitigation measure proposed to be implemented;
 - b) a substantial increase in the severity of the impacts that were disclosed and analyzed in the DEIR;
 - c) any new feasible project alternatives or mitigation measures considerably different from others previously analyzed that would clearly lessen significant environmental impacts of the project, but which the project's proponents refuse to adopt. This includes consideration of the no project alternative "No Project" variant that has been added in the FEIR assessing the status quo; and

Exhibit 2a

- d) a finding that the DEIR is so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.
7. The FEIR presents factual, quantitative and qualitative data and studies, which find and support the conclusion that the project will result in several potentially significant impacts that necessitate mitigation. At the time the City considers action on the project’s merits, it will be necessary to make complete and detailed findings pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a). For each significant effect identified in the EIR, the City will be required to make one or more of the following findings:
 - a) that changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR; that such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding, and that such changes have been adopted by such other agency or can and should be adopted by such other agency;
 - b) that specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR; and
 - c) As the project would result in several significant, unavoidable impacts, findings of overriding consideration will be required. Such findings will require that the City weigh the benefits of the project with the environmental impacts that cannot be mitigated.
 8. The City is taking an action to certify the FEIR for the project, recognizing it as an informational document for assessment of the project. The CEQA Guidelines recognize that an environmental document is prepared for public disclosure of potential project impacts and that it is used as an informational document to guide decision-makers in considering project merits. Certification of the FEIR, as presented, would not result in a land use entitlement or right of development for the project site. The FEIR document must be reviewed to determine whether it adequately assesses the impacts of the project, and whether the circumstances presented in Public Resources Code section 21166, as amplified by its corresponding CEQA Guidelines Sections 15162 to 15163 are present with respect to the project to determine whether a Subsequent EIR, a Supplement to the EIR, or Addendum to the EIR need be prepared or if further environmental review under CEQA is not required. Certification of the FEIR prior to consideration of and taking action on project entitlements does not prejudice or bias review or actions on the proposed development project.

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____ :

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

RESOLUTION NO. 20-

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL: 1) ADOPTION OF CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS OF FACT, 2) ADOPTION OF A
STATEMENT OF OVERRIDING CONSIDERATIONS, 3) APPROVAL OF AN EXCEPTION
TO THE CITY-ADOPTED LEVEL OF SERVICE STANDARDS SET FORTH IN SAN RAFAEL
GENERAL PLAN 2020 CIRCULATION ELEMENT POLICY C-5 AND 4) APPROVAL OF THE
MITIGATION MONITORING PROGRAM (MMRP) FOR THE 999 3rd STREET (BIOMARIN /
WHISTLESTOP / EDEN HOUSING) PROJECT REQUESTING A GENERAL PLAN
AMENDMENT (GPA18-001), PLANNED DEVELOPMENT (PD) REZONING (ZC18-002),
ZONING ORDINANCE TEXT AMENEMENT (ZO18-003), DEVELOPMENT AGREEMENT
(DA19-001), MASTER USE PERMIT (UP18-034), ENVIRONMENTAL AND DESIGN REVIEW
PERMIT (ED18-087) SMALL SUBDIVISION (S18-001) AND SIGN PROGRAM AMENDMENT
(SP18-006) TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY
RESEARCH AND DEVELOPMENT BUILDINGS AND A 67-UNIT, 70-FOOT TALL, SIX-
STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 133,099
SQ. FT. PARCEL AT 999 3rd St AND ADJACENT SAN RAFAEL CORPORATE CENTER.
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street and adjacent San Rafael Corporate Center; and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards, Noise, Public Services, Recreation, Greenhouse Gases, Hydrology and Water Quality, Land Use and Planning, Transportation/Traffic, Energy, Utilities, Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). As part of this review, on September 24, 2019, the Planning Commission held a duly-noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

Exhibit 2b

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed. On January 10, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the Project property and to all responsible, trustee and other public agencies that commented on the DEIR; A notice of availability was also published in the Marin Independent Journal on January 11, 2020; and;

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures and requirements for implementing all mitigation measures identified in the FEIR, and is provided in attached Attachment A of this Resolution; and

WHEREAS, the FEIR concludes that all impacts identified in the FEIR have been or can be mitigated to a level of less-than-significant, with the exception of one “Land Use and Planning” impact and three “Transportation” impacts. The FEIR concludes that the project will result in the following significant, unavoidable environmental impacts

Land Use and Planning. Implementation of the proposed project could potentially conflict with some of the applicable goals, policies, and programs of the General Plan 2020, which were adopted by the City of San Rafael for the purpose of avoiding or mitigating an environmental effect. This potential conflict is with the following General Plan policies:

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:

- a. Project-related traffic will not cause the level of service established in the Circulation Element to be exceeded;
- b. Any circulation improvements needed to maintain the level of service standard established in the Circulation Element have been programmed and funding has been committed;
- c. Environmental review of needed circulation improvement projects has been completed;
- d. 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
- e. Sewer, water, and other infrastructure improvements will be available to serve new development by the time the development is constructed.

Transportation. Implementation of the proposed project would contribute potentially significant project-related impacts involving conflicts with a program, plan, ordinance, or policy addressing the circulation system listed below:

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

Exhibit 2b

offramp would worsen. This condition would conflict with standards provided in the Marin County Congestion Management Plan.

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

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

The FEIR concludes that there are no mitigations that can be imposed or required to reduce these impacts to a less-than-significant level; and

WHEREAS, the FEIR identifies Alternative 2: "Reduced Scale project" as the Environmentally Superior Alternative, which would reduce the overall BioMarin project size and would reduce some of the overall impacts to Transportation in the Project Area. However, this Alternative would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/EDEN housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. If the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/EDEN Housing part would also not occur; and

WHEREAS, CEQA Guidelines Section 15093 requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental impacts when determining whether to approve a project. If these benefits outweigh the unavoidable adverse environmental effects, the adverse effects may be considered "acceptable" and a statement of overriding considerations may be adopted by the agency. The decision-making agency must state in writing the specific reasons to support its action based on the FEIR and/or other information in the record. The statement of overriding considerations must be supported by substantial evidence in the record; and

WHEREAS, in support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly-noticed public hearing on the FEIR and Project merits, accepting all public testimony and the written report of the Community Development Department staff. As part of this hearing process the Planning Commission considered

Exhibit 2b

CEQA Findings of Fact, Exception to Circulation Element Policy C-5 (LOS Standards), Statement of Overriding Considerations contained in this resolution, and the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolution, recommended to the City Council certification of the FEIR for the Project; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolutions, recommended to the City Council 1) approval of a General Plan amendment, 2) adoption of the Planned Development (PD) Rezoning (ZC18-002), 3) adoption of Zoning Ordinance Text Amendment (ZO18-003), 4) approval of a Development Agreement (DA19-001), and 5) approval of Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006); and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of San Rafael does hereby recommend to the City Council: a) approval the following CEQA Findings of Fact; b) adoption the following Statement of Overriding Considerations; and c) approval of the MMRP presented in Attachment A, finding that the MMRP has been prepared in accordance with the CEQA Guidelines:

FINDINGS OF FACT

I. California Environmental Quality Act (CEQA)

A. Final EIR

By separate Planning Commission Resolution adopted concurrently with this Resolution, the Planning Commission reviewed and recommended certification of the Project's FEIR. As part of this action and as outlined in this separate resolution, the Planning Commission: reaffirms the findings made in the separate Planning Commission Resolution that a) supported the certification of the FEIR; b) found that the FEIR has been prepared in accordance with the CEQA Guidelines and the City of San Rafael Environmental Assessment Procedures Manual; and c) found and concluded that the FEIR adequately assesses the environmental effects of the Project and represents the independent judgment of the City.

B. Incorporated Documents/ Record of Proceedings

The following information is incorporated by reference and made part of the record supporting these findings:

- All Project plans and application materials, including supportive technical reports;
- The DEIR and Appendices (August 2019) and FEIR (January 10, 2020), and all documents relied upon, cited therein or incorporated by reference;
- The Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project;
- The City of San Rafael *General Plan 2020* and *General Plan 2020* FEIR;
- Zoning Ordinance of the City of San Rafael (SRMC Title 14);
- Subdivision Ordinance of the City of San Rafael (SRMC Title 15);
- City Council Ordinance No. 1772, City Council Resolution No. 10980 and the City of San Rafael Archaeological Sensitivity map;

Exhibit 2b

- BioMarin's 999 3rd Street Project Development Agreement Term Sheet, dated January 10, 2020
- All records of decision, resolutions, staff reports, memoranda, maps, exhibits, letters, synopses of meetings, summaries, and other documents approved, reviewed, relied upon, or prepared by any City commissions, boards, officials, consultants, or staff relating to the Project;
- Any documents expressly cited in these findings, in addition to those cited above; and
- Any other materials required for the record of proceedings by caselaw and/or Public Resources Code section 21167.6, subdivision (e).

Pursuant to CEQA Guidelines Section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City has based its decision are located in and may be obtained from the City's Department of Community Development, Planning Division, at 1400 Fifth Ave, Third Floor, San Rafael, CA 94901. The Community Development, Planning Division is the custodian of records for all matters before the Planning Commission.

II. Findings of Fact in Support of Project Action

The FEIR, prepared in compliance with CEQA, evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Project. Because the FEIR concludes that implementation of the Project would result in adverse impacts, the City is required by CEQA to make certain findings with respect to these impacts. (CEQA Guidelines Section 15091) These findings list and describe the following, as analyzed in the EIR: a) impacts determined to be insignificant or less-than-significant in the Notice of Preparation checklist; b) impacts found to be less than significant after individual analysis in the EIR; c) significant impacts that can be avoided or reduced with mitigation; d) significant impacts that cannot be avoided; and e) project alternatives that were developed and studied as provided in the CEQA Guidelines.

These findings are supported by substantial evidence in the entirety of the record of proceedings before the City, which is incorporated herein by this reference. Further explanation of these environmental findings and conclusions can be found, without limitation, in the DEIR and FEIR, and these findings hereby incorporate by reference the discussion and analysis in those documents supporting the FEIR determinations regarding mitigation measures and the Project's impacts and mitigation measures designed to address those impacts. In making these findings, the City ratifies, adopts and incorporates in these findings the determinations and conclusions of the DEIR and FEIR relating to environmental impacts and mitigation measures, except to the extent any such determinations and conclusions are specifically and expressly modified by these findings.

A. IMPACTS DETERMINED TO BE LESS THAN SIGNIFICANT AND NOT INDIVIDUALLY ANALYZED

During the Project's Notice of Preparation (NOP) and scoping period, the City determined that a number of the Project's potential environmental effects would be insignificant, less-than-significant or would be adequately addressed through the City's environmental review process, including Agriculture Resources, Biological Resources, Mineral Resources, Population/Housing, Schools and Libraries (Public Services), and Wildfire. For these topics, in accordance with

Exhibit 2b

CEQA Guidelines Section 15128, no need for further environmental assessment was required for the preparation of the FEIR.

Finding: The Project's DEIR contains brief statements identifying possible impacts that were determined to be insignificant or less-than-significant, along with the reasons for those determinations. The City adopts those statements and concludes that the referenced environmental effects are insignificant or less than significant and no further analysis in the FEIR is required.

B. IMPACTS DETERMINED TO BE LESS-THAN-SIGNIFICANT AFTER INDIVIDUAL ANALYSIS.

The NOP and scoping period identified a number of potential environmental impacts to be analyzed in the DEIR. Through that analysis, impacts relating to Aesthetics, Energy, Greenhouse Gas Emissions, Public Services, Recreation, Tribal Cultural Resources, and Utilities and Service Systems were determined to be less-than-significant and, thus, no mitigation measures are necessary or required, as noted below.

Finding: The City adopts these statements and concludes that the referenced environmental impacts would be less than significant for the reasons stated below and contained within the entirety of the record of proceedings.

1) Aesthetics

a. The Project Will Not Result in Visual Character or Quality Impacts

Facts in Support of Finding: As discussed on pages 4.1-11 to 4.2-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not substantially change the character of the Project site by constructing the new 72-foot tall buildings on an existing surface parking lot. Further, visual simulations show that the Project will not obstruct views from many viewpoints, will have less-than-significant impacts on views of Mt. Tamalpais from public vantage points, and the use is consistent and compatible with surrounding uses. In addition, the Project is consistent with design guidelines in the General Plan 2020 and non-residential design guidelines. This impact will therefore be less than significant.

b. The Project Will Not Increase Light and Glare

Facts in Support of Finding: As discussed on pages 4.1-22 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not increase light and glare due to existing presence of commercial lighting. Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. In sum, the Project's lighting will not be substantial in comparison to existing conditions and will not affect nighttime views or cause potential "spillage" of lighting that may affect nearby residents. This impact will therefore be less than significant.

c. The Project Will Not Result in Cumulative Aesthetic Impacts

Facts in Support of Finding: As discussed on page 4.1-23 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in cumulative visual impacts. The Project is subject to City of San Rafael Design Guidelines and formal Design Review to ensure high-quality and compatible design.

Exhibit 2b

Lighting on the Project site will be directed downward and angled to reduce spillover of ambient light onto adjacent properties. The Project therefore will not make a cumulatively considerable contribution to a significant cumulative impact, and thus this impact will be less than significant.

2) Air Quality

a. Consistency with the Bay Area Clean Air Plan

Facts in Support of Finding: As discussed on DEIR page 4.2-10 to 4.2-14 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, the project would result in an overall increase in local and regional pollutant loads due to direct impacts from construction and operational emissions. However, based on the BAAQMD's CEQA Air Quality Guidelines, the project would not conflict with or obstruct implementation of the applicable air quality plan and the associated air quality impact would be less than significant. The project's estimated emissions for ROG, NO_x, and exhaust PM₁₀ and PM_{2.5} during construction were well below the applicable thresholds and, therefore, would have a less-than-significant impact on regional air quality. The estimated emissions for ROG, NO_x, and exhaust PM₁₀ and PM_{2.5} during operation of the project were below the thresholds and, therefore, would have a less-than-significant impact on regional air quality.

b. Exposure of Sensitive Receptors to Toxic Air Contaminants and PM_{2.5}

Facts in Support of Finding: As discussed on DEIR page 4.2-14 to 4.2-21 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, project construction would generate DPM and PM_{2.5} emissions primarily from the exhaust of off-road diesel construction equipment emissions from testing and maintenance of an emergency generator. The emissions of DPM and PM_{2.5} from diesel exhaust during project construction and operation could pose a health risk to nearby sensitive receptors. Similarly, project operations would generate DPM and PM_{2.5}. In addition, the project has potential to create individual TAC and PM_{2.5} emissions during construction and operation, the potential cumulative health risks to sensitive receptors from existing and future foreseeable sources of TACs and PM_{2.5}. The excess cancer risk, chronic HI, and annual average PM_{2.5} concentrations at the on-site MEIR were below the BAAQMD's cumulative thresholds. Therefore, the cumulative impact on nearby sensitive receptors from TAC and PM_{2.5} emissions during construction and operation of the proposed project would be less than significant.

c. Generation of Odors

Facts in Support of Finding: As discussed on DEIR page 4.2-21 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, Project construction and operation would not be expected to generate significant odors because the project would not include handling or generation of noxious materials. Therefore, project impacts related to odors would be less than significant.

d. Cumulative Operational Air Quality Impacts

Facts in Support of Finding: As discussed on Draft EIR page 4.2-22 and supported by evidence contained within the entirety of the record of proceedings, under CEQA, since construction and operation of the proposed project would not exceed the BAAQMD's thresholds of significance for criteria pollutants (including ozone precursors), the cumulative impact on regional air quality would be less than significant. The project

Exhibit 2b

would also not exceed the BAAQMD threshold emissions of DPM and PM2.5 during construction and operation of the project.

3) Cultural Resources

a. Human Remains

Facts in Support of Finding: As discussed on Draft EIR page 4.3-8 and supported by evidence contained within the entirety of the record of proceedings, under CEQA the project would have less-than-significant impacts on human remains, including those interred outside formal cemeteries. As noted under “Pre-Contact Archaeological Resources and Human Remains,” Native American human remains could be encountered below the engineered fill at the project site. Should human remains be unearthed during project construction, these would be treated in accordance with existing state laws, including California PRC Section 5097.98 and California Health and Safety Code Section 7050.5. With enforcement and implementation of these state laws, project impacts on human remains would be less than significant, and no mitigation measures are required.

4) Energy

a. **The project would not result in a potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.**

Facts in Support of Finding: As discussed pages 4.4-4 to 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not result in wasteful, inefficient, or unnecessary consumption of energy. While energy consumption would increase (due to the proposed new buildings and associated vehicle traffic), the net increase in overall per capita consumption would not be considered substantial, for two reasons:

1. **Downtown Infill Location.** The project would be located on a downtown infill site already served by roads, transit, and utilities. This type of infill development tends to be more energy efficient than development on less centrally located sites, as it offers opportunities for reusing existing resources and encouraging use of public transit and other alternatives to private vehicles.
2. **Energy Efficiency Measures.** The project includes energy efficiency measures and would likely be subject to additional applicable state and local requirements at the time of detailed project review. In addition, all project buildings would be designed to accommodate solar roof systems at some point in the future. As noted in the above analysis, the energy consumption estimates for the project are considered conservative, because it was assumed that no energy savings would result above current standards; therefore, the project’s actual energy consumption might be less than the estimates, since additional energy reduction measures will likely be introduced at the state and local level over time and would be included in the project. The project would be subject to City of San Rafael policies and review procedures that would ensure that the project incorporates the latest energy conservation measures. This impact will therefore be less than significant.

Exhibit 2b

b. The project would not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

Facts in Support of Finding: As discussed page 4.4-7 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency. The project applicants are proposing that the project be designed with a variety of energy-saving features, which are described in detail in Chapter 3, Project Description, of this DEIR. Through the local building permit process, the project would be required to abide by all State of California mandates for energy conservation. The project therefore would not conflict or obstruct a state or local plan for renewable energy or energy efficiency.

c. The project would not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects.

Facts in Support of Finding: As discussed page 4.4-7 to 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project will not require or result in the relocation or construction of new or expanded electric power or natural gas facilities, the construction or relocation of which could cause significant environmental effects. The project site is already served by PG&E electricity and natural gas facilities. It is generally expected that the project would connect to existing PG&E utility lines serving the site. New gas underground service would be installed for each building, with points of connection and gas meters located immediately adjacent to each building. A new electrical power underground service would be provided, with underground feeders extended from existing vaults to the project site and ending at a new pad-mounted transformer outside each building. A utility meter would be provided at each main switchboard. A transformer would be provided to serve BioMarin Building B. An on-site generator would be provided for emergency power use (BioMarin and Whistlestop/Eden Housing, 2019). A new PG&E gas underground connection/service would be provided for the Whistlestop/Eden Housing project, and a new electrical transformer would be installed at the southwest corner of the site, next to the electrical room. A new gas meter would be located at the southwest corner of the site.

d. The Project would not result in net increased energy demand and, combined with other past, present, and probable future projects, would not result in a significant cumulative impact.

Facts in Support of Finding: As discussed page 4.4-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the net increased energy demand from the Project would be minimal and would not require expanded or new energy facilities as a direct result of project development. The proposed project would not result in any significant impacts on energy services. The proposed project would realize transportation-related energy savings compared to similar projects in a location at a distance from urban areas. The proposed project and other projects have been and would be required to comply with all standards of Title 24 of the California Code of Regulations. PG&E, which provides energy to the project site and vicinity, produces much of its energy from renewable sources and has plans in place to increase reliance on renewable energy sources. Because many agencies in California have adopted policies seeking increased use of renewable resources (and have established minimum standards for the provision of energy generated by renewable resources), it is expected that PG&E would continue to meet future demands for energy via a gradually

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increasing reliance on renewable resources, including small-scale sources such as photovoltaic panels and wind turbines, in addition to larger-scale facilities, such as wind farms. MCE also serves the San Rafael area, providing additional alternatives for renewable electricity service. The increase in demand would likely be met through the development of renewable resources that would have fewer environmental effects than the development of new conventional gas- or coal-fired power plants.

5) Geology and Soils

a. Surface Rupture

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving rupture of a known earthquake fault. Available mapping does not identify a fault at or near the project site that would have the potential to result in surface rupture (Miller Pacific Engineering Group, 2018). In a seismically active area such as the San Francisco Bay region, a remote possibility exists for future faulting to occur in areas where no faults previously existed. Because this is unlikely to occur, the geotechnical report for the proposed project concluded that the potential for fault surface rupture at the project site is low (Miller Pacific Engineering Group, 2018). Therefore, the potential for substantial adverse impacts to occur due to surface rupture is less than significant.

b. Landslides

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not directly or indirectly cause potential substantial adverse effects involving landslides. The project site and surrounding areas are relatively flat. The site-specific geotechnical investigation report did not identify any potential slope stability or landslide hazards associated with the proposed project (Miller Pacific Engineering Group, 2018). Therefore, the potential for the proposed project to expose people or structures to substantial adverse effects involving landslides is less than significant.

c. Soil Erosion or Loss of Topsoil

Facts in Support of Finding: As discussed on pages 4.5-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in substantial erosion or the loss of topsoil. Potential soil erosion impacts of the proposed project would be related to stormwater runoff entraining soils exposed during construction, and are analyzed in Section 4.8, Hydrology and Water Quality.

d. Cumulative Geology and Soils Impacts

Facts in Support of Finding: As discussed on pages 4.5-15 to 4.5-16 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Geologic impacts do not extend far beyond a project's boundaries because geologic and soils conditions can vary widely over a short distance and therefore potential impacts are typically confined to discrete spatial locations and do not combine to create a significant cumulative impact. There are no large landslide features or fault zones present in the vicinity of the project site. The development of the proposed project and the nearby cumulative projects would not alter the geologic or seismic hazards at any off-site location. Therefore, the potential cumulative impact related to geologic hazards would be less than significant. The proposed project and cumulative projects within San Rafael,

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could affect unidentified paleontological resources. However, impacts on these resources accidentally discovered during implementation of these projects would be mitigated to less-than-significant levels through the use of appropriate mitigation measures adopted as conditions of approval. Collectively, the proposed project and other projects would not result in a cumulative increase in impacts on paleontological resources as these resources would be avoided or otherwise removed, analyzed, and reported (i.e., by a qualified paleontologist). Therefore, the potential cumulative impact would be less than significant.

6) Green House Gas Emissions

a. GHG Emissions from Project Operations

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, GHG emissions generated by the project would not have a significant impact on the environment. In 2019, the City of San Rafael adopted the CCAP 2030 in order to implement measures to reduce GHG emissions and adapt to climate change. The CCAP 2030 identifies strategies for reducing the City of San Rafael's GHG emissions 25 percent below 2005 levels by 2020, which is more stringent than the statewide 2020 target under AB 32, and 40 percent below 1990 levels by 2030, which is consistent with the statewide 2030 target under SB 32. These GHG reductions would also put the city on a trajectory to reduce GHG emissions 80 percent below 1990 levels by 2050, which is consistent with the statewide 2050 target under Executive Order S-3-05. Emissions reductions related to transportation, energy efficiency, renewable energy, and water conservation are estimated in the CCAP 2030 and show that the City would surpass the City and statewide goals for 2020 and 2030 by reducing emissions 19 percent below 1990 levels by 2020 (equivalent to 31 percent below 2005 levels) and 42 percent below 1990 levels by 2030. These GHG reductions would primarily be achieved through low-carbon transportation, energy efficiency, renewable energy, waste reduction, and water conservation. Therefore, the GHG emissions generated by the project would have a less-than-significant impact on the environment.

b. Consistency with San Rafael's CCAP 2030

Facts in Support of Finding: As discussed on pages 4.6-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be consistent with the City of San Rafael's CCAP 2030. As discussed above, the project's GHG emissions impact is considered less than significant because the project is consistent with the CCAP 2030.

7) Hazards and Hazardous Materials

a. The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Facts in Support of Finding: As discussed on pages 4.7-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, during project construction, hazardous materials (e.g., fuel, oils, solvents, paints) would be routinely transported, stored, and used at the project site. Because the proposed project would result in soil disturbance greater than 1 acre, management of soil and hazardous materials during construction activities would be subject to the requirements of the Stormwater Construction General Permit which requires preparation and implementation of a

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Stormwater Pollution Prevention Plan (SWPPP) that includes hazardous materials storage requirements. The routine handling and use of hazardous materials by workers would be performed in accordance with OSHA regulations, which include training requirements for workers and a requirement that hazardous materials are accompanied by manufacturer's Safety Data Sheets (SDSs). Cal/OSHA regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials. Compliance with these existing regulations would ensure that workers are protected from exposure to hazardous materials that may be transported, stored, or used on-site. Compliance with the existing regulations for hazardous materials discussed above would ensure that the proposed project would not result in significant impacts related to the routine transport, use, storage, or disposal of hazardous materials.

b. During construction, the project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

Facts in Support of Finding: As discussed on pages 4.7-16 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project would not result in an accidental release of hazardous materials (e.g., oils, fuels, solvents, and paints) during project construction. The proposed project would be subject to the requirements of the Construction General Permit, which require preparation and implementation of a SWPPP and best management practices (BMPs) to reduce the risk of spills or leaks from reaching the environment, including procedures to address minor spills of hazardous materials. Measures to control spills, leakage, and dumping must be addressed through structural as well as nonstructural BMPs, as required by the Construction General Permit. Construction activities that would disturb potentially contaminated soil and groundwater at the project site would be subject to the requirements of the Covenant and SGMP, including requirements for worker health and safety, dust and odor control, stockpile management, stormwater runoff and erosion control, soil and groundwater disposal protocols, and protocols for the discovery of unanticipated conditions (e.g., subsurface features or contaminated soil not identified during previous investigations). Compliance with the requirements of the Covenant, SGMP, and the Construction General Permit would ensure that the proposed project would result in less-than-significant impacts related to the accidental release of hazardous materials during construction.

c. The project would not result in significant impacts related to emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Facts in Support of Finding: As discussed on pages 4.7-17 to 4.7-18 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the proposed project is located approximately 800 feet from Saint Raphael Elementary, a private school located at 1100 Fifth Avenue north of the project site. The project site is approximately one-quarter mile north of the James B. Davidson Middle School public school located at 280 Woodland Avenue. The proposed project would be designed, constructed, and operated in accordance with the requirements of the CBC, CFC, and IFC for the storage and handling of hazardous materials; and operation of the project would be required to comply with existing hazardous materials regulations enforced by Marin County. Compliance with the existing regulations discussed above would ensure that the proposed project would have less-than-significant impacts related to potential hazardous emissions near schools during operation of the project.

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- d. The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, although the project site is a known hazardous materials release site, the project site is not included on any of the lists of hazardous materials release sites compiled pursuant to Government Code Section 65962.5, also known as the “Cortese List” (CalEPA, 2019). Therefore, the proposed project would have no impact related to being included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.

- e. The project is not located in the vicinity of an airport and therefore would not result in airport-related safety hazards or excessive noise for people residing or working in the project area.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the nearest airport to the project site is San Rafael Airport, approximately 3 miles north of the project site. San Rafael Airport is a private use airport (AirNav, 2019) and does not have a land use plan. The nearest public airport to the project site is the Marin County Airport at Gness Field in Novato, approximately 12 miles to the north. The project site is not located within the land use plan area for the Marin County Airport at Gness Field (Marin County Planning Department, 1991). There are no airports located within 2 miles of the project site. Therefore, the proposed project would have no impacts related to aviation hazards.

- f. The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

Facts in Support of Finding: As discussed on pages 4.7-19 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, construction of the project could require temporary closure of portions of streets adjacent to the project site. Traffic control requirements imposed by the City for the permitting of temporary closure of street areas would ensure that appropriate emergency access is maintained at all times during construction activities. The proposed project would not permanently alter roadways in the vicinity of the project site. Therefore, the proposed project would have a less-than-significant impact related to impeding or interfering with emergency response or evacuation plans.

- g. The project would not expose people or structures, either directly or indirectly, to significant risk of loss, injury, or death involving wildland fires.**

Facts in Support of Finding: As discussed on pages 4.7-19 and 4.7-20 of the DEIR and supported by evidence contained within the entirety of the record of proceeding, the project site is within a highly urbanized area and is not located near heavily vegetated areas or wildlands that could be susceptible to wild fires. The project site is not located in or near a State Responsibility Area or a Very High Fire Hazard Severity Zone as mapped by the California Department of Forestry and Fire Protection (CAL FIRE, 2008). The project site is not in or near a Wildland-Urban Interface area mapped by the City of San Rafael (City of San Rafael, 2007). (Wildland-Urban Interface areas are areas where structures are built near lands prone to wildland fire.) Therefore, the project would have a less-than-significant impact related to wildland fire hazards.

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8) Hydrology and Water Quality

a. The project would not result in substantial erosion or siltation on- or off-site.

Facts in Support of Finding: As discussed on pages 4.8-12 and 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Construction activities would involve excavation and grading, which would temporarily alter drainage patterns and expose soil to potential erosion. Compliance with the Construction General Permit and City of San Rafael BMPs for construction activities would ensure that erosion of exposed soil and sedimentation of receiving waters or the combined sewer system would not occur during construction of the proposed project. During operation of the project, the site would be covered by buildings, pavement, and landscaped areas, with no ongoing soil exposure or disturbance that could result in erosion and siltation. For these reasons, the potential of project construction and operation to change drainage patterns in a manner that would result in erosion or siltation on- or off-site would be less than significant.

b. The project would not impede or redirect flood flow.

Facts in Support of Finding: As discussed on pages 4.8-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the majority of the proposed project is located within the 100-year flood hazard zone. The project site is not located in a regulatory floodway. Any proposed development or modification of the regulatory floodway is subject to the special study requirements of San Rafael Municipal Code Section 15.50.060. The flooding at the project site and vicinity is mapped as shallow flooding of 1 to 3 feet that usually consists of areas of ponding. The development of the project site would not alter this existing flooding pattern, which is controlled by the properties of San Rafael Creek. In addition, the project would be required to comply with the requirements of Section 18 of the San Rafael Municipal Code and acquire a development permit in accordance with Section 18.40.010. Therefore, after development of the buildings, the flood water surrounding the project site would continue to consist of shallow flooding with areas of ponding, and the potential of the proposed project to redirect or impede flood flows would be less than significant.

c. The project would not result in a substantial release of pollutants during inundation of the project site by flood waters.

Facts in Support of Finding: As discussed on pages 4.8-13 to 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project site is not located in an area subject to flooding due to tsunami, seiche, or dam inundation. The construction of the proposed project would be required to implement a SWPPP and to comply with City of San Rafael BMPs for construction activities, including measures for managing hazardous materials used on construction sites and for keeping the construction site maintained in a clean and orderly state, and hazardous materials storage requirements. Once constructed, the project buildings would be subject to inundation during the 100-year flood, as well as to inundation due to sea level rise. Urban pollutants associated with the proposed land uses include oils, fuels, and metals associated with motor vehicle traffic; fertilizers and pesticides used to maintain landscaped areas; and trash generated by new site occupants. In addition, some contamination would likely be present in the soil and groundwater on the project site even after remediation is complete. The maintenance of the site cap would prevent contaminants in the soil and groundwater on the site from coming into contact with

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floodwaters. Therefore, the risk of the release of pollutants from these flood hazards would be less than significant during both project construction and operation.

d. The project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

Facts in Support of Finding: As discussed on pages 4.8-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no significant groundwater resources are located at the project site, and there is no groundwater management plan for the area of the project site. The Basin Plan is the master policy document that establishes the water quality objectives and strategies needed to protect designated beneficial water uses in the San Francisco Bay region. The State Water Board and Regional Water Board enforce compliance with the water quality objectives of the Basin Plan through the issuance of NPDES permits. The project would comply with the Construction General Permit and Small MS4 Permit. Compliance with these permits would ensure that the proposed project would not have the potential to conflict with the Basin Plan. Therefore, this impact would be less than significant.

9) Land Use and Planning

a. The project would not divide an established community.

Facts in Support of Finding: As discussed on pages 4.9-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, no land uses are currently present on the project site. The project would allow development of office, R&D, multi-family housing, and retail uses that would be generally compatible with surrounding uses in the downtown area. Thus, the project would not divide an established community, and the impact would be less than significant.

10) Noise

a. Airport Noise

Facts in Support of Finding: As discussed on pages 4.10-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not expose people residing or working in the project area to excessive airport noise levels. The nearest private airstrip to the project site is the San Rafael Airport, approximately 3 miles to the north. A heliport is located approximately 2.6 miles southeast of the project site. The project site is located outside of the 60 dBA Ldn contour line of both San Rafael Airport and the heliport (City of San Rafael, 2017). The project site is not located within the vicinity of any other private airstrip (Federal Aviation Administration, 2019). Therefore, the proposed project would not expose people in the project area to excessive noise levels from any private airstrips. The nearest public use airport to the project site is the Marin County Airport (also known as Gness Field) in Novato, approximately 12 miles to the north. The project site is not located in a land use plan for Marin County Airport (Marin County Planning Department, 1991). Therefore, the proposed project would not expose people at the project site to excessive noise levels from any public use airports.

b. Operational Noise Related to Increased Traffic

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Project-related traffic would not generate a substantial permanent increase in ambient noise levels in

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excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The proposed project would increase vehicle trip generation during operation but below the 3 dBA significance threshold for project-generated traffic noise. Consequently, the proposed project would not result in a significant increase in traffic noise along local area roadways.

c. **Land Use Compatibility**

Facts in Support of Finding: As discussed on pages 4.10-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating a noise effect. According to the traffic noise level contours of the General Plan, existing noise levels range from 65 dBA Ldn to 69 dBA Ldn in the northern portion of the project site and from 68 dBA Ldn to 72 dBA Ldn in the southern portion of the project site. A typical building façade with windows closed would also reduce the interior noise levels for the BioMarin project to 40 to 47 dBA Ldn, which is consistent with the interior noise levels requirements of 50 dBA Ldn in 2016 California Building Standards Code for buildings containing non-residential uses. Therefore, impacts related to land use compatibility would be less than significant.

11) Public Services

a. **The project would increase the demand for fire protection services, but not to the extent that new or physically altered fire stations would be needed.**

Facts in Support of Finding: As discussed on page 4.11-14 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for fire protection services, including increased calls for service. This new demand would not be large enough to require new or physically altered fire protection facilities or equipment, however. The project would not require the hiring of any additional firefighters, and no new or upgraded facilities would be necessary. As such, the impact is considered less-than-significant.

b. **The project would increase the demand for police services, but not to the extent that new or physically altered police stations would be needed.**

Facts in Support of Finding: As discussed on page 4.11-15 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed Project could generate new demand for police services, including increased calls for service and response to traffic-related issues. This new demand would not be large enough to require new or physically altered police facilities or equipment, however. The project would not require the hiring of any additional officers, and no new or upgraded police facilities would be necessary. In addition, at the time of building permit issuance, the project applicants would pay development impact fees of \$0.12 per square foot of commercial space, \$0.06 per square foot of industrial space, and \$128.50 per bedroom for residential uses. The City of San Rafael would use these funds to cover the costs of the project's impact on public facilities and services within the city, including on-going costs of police services. As such, the impact is considered less-than-significant.

c. **The Project Will Not Result in Significant Cumulative Public Services Impacts**

Facts in Support of Finding: As discussed on page 4.11-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the completed

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Project will not service demands from the project would not affect these services enough to create the need for new or expanded facilities. The project would be subject to Fire Code requirements and other standard requirements for features such as emergency access, signage, lighting, and security. Other projects in the San Rafael city limits would also be subject to these standard requirements, along with development impact fees that are used by the City to cover the cost of project impacts on public facilities and services. As such, the impact is considered less-than-significant.

12) Recreation

- a. **The project would not increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated or such that new or altered facilities would be needed.**

Facts in Support of Finding: As discussed on page 4.12-3 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the proposed on-site recreational facilities and services are expected to be adequate to serve the needs of the on-site population. While the project could result in an increase in use of nearby parks and recreational facilities, this increase would not be large enough to result in the need for new or altered parks or cause deterioration of existing parks or recreational facilities. The project would not create any conflicts with San Rafael General Plan 2020 policies for recreational facilities. The impact would be less than significant, and no mitigation is necessary.

- b. **The project would include recreational facilities and would not require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment.**

Facts in Support of Finding: As discussed on page 4.12-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would include on-site recreational facilities. The environmental impacts of constructing these facilities are evaluated throughout this DEIR as part of the analysis of the project as a whole. The proposed on-site recreational facilities would not have any specific adverse physical effects on the environment. The recreational needs of the project's population would be met on-site, and the project would not create a need for construction or expansion of other recreational facilities. As such, the impact is considered less-than-significant.

- c. **The Project Will Not Result in Significant Cumulative Recreation Impacts**

Facts in Support of Finding: As discussed on page 4.12-5 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, The project, in conjunction with other past, present, and probable future projects, could result in a cumulative increase in demand for recreational facilities in the area. The cumulative increase in demand would result from the project along with existing and future development in the area, particularly residential development. As discussed in the above analysis, however, demand from the project would not result in a significant impact on recreational facilities or create the need for new or expanded facilities, because the recreational needs of residents, employees, and other project occupants would be met on-site. In addition, anticipated residential projects in San Rafael and other cities would be subject to each city's respective standard requirements for parkland dedication or in-lieu

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payment of fees to fund parks and recreational facilities. For these reasons, the project would not result in or contribute to any significant cumulative recreation impacts.

13) Transportation

- a. **The Project would not conflict with a program, plan, ordinance, or policy addressing transit facilities or bicycle facilities.**

Facts in Support of Finding: As discussed on page 4.13-20 to 4.13-21 of the DEIR and supported by evidence contained within the entirety of the record of proceedings the proposed project will increase potential public transit ridership but the level of added transit ridership would not have a significant impact on the SMART, Golden Gate Transit, or Marin Transit routes serving downtown San Rafael. Therefore, project impacts on transit facilities are considered less than significant. The project will include provisions for bicycle parking and storage are included in both the BioMarin and Whistlestop/Eden Housing projects. Therefore, project impacts on bicycle facilities are considered less than significant.

14) Tribal Cultural Resources

- a. **The Project would not potentially cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is Geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe.**

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Federated Indians of Graton Rancheria (FIGR) has requested consultation with the City to address potential impacts on tribal cultural resources. Based on a discussion between the City and the FIGR Tribal Historic Preservation Officer, Buffy McQuillen, the tribe neither provided specific information regarding the presence of tribal cultural resources at the project site nor requested specific mitigation measures be implemented. The NWIC records search did not identify Native American archaeological deposits or ancestral remains at or adjacent to the project site. The proposed project would have no impact on known tribal cultural resources that are listed or eligible for listing in the California Register of Historical Resources or a local register of historical resources. The City has not identified substantial evidence to indicate the presence of a tribal cultural resource.

- b. **The Project Will Not Result in Significant Cumulative Tribal Resource Impact.**

Facts in Support of Finding: As discussed on page 4.14-4 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, based on a review of project and CEQA documentation available on the City of San Rafael website, no recent past, current, or probable future projects under review by the City include reported tribal cultural resources as defined under PRC Section 21074. When the City considers future development proposals, these proposals would undergo environmental review pursuant to CEQA and, when necessary, mitigation measures would be adopted as appropriate. Measures to mitigate or avoid impacts on tribal cultural resources would be drafted in consultation with FIGR. In most cases, this consultation would ensure that significant impacts on tribal cultural resources would be avoided or otherwise mitigated to less-than-significant levels. For these reasons, the proposed project would not result in or contribute to any significant cumulative impacts on tribal cultural resources.

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15) Utilities and Services

- a. **The project would not require or result in the relocation or construction of new or expanded water, wastewater treatment, or other facilities; the construction or relocation of which could cause significant environmental effects.**

Facts in Support of Finding: As discussed on page 4.15-8 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would not result in the construction of new off-site water facilities or expansion of existing facilities. No extension of MMWD pipelines would be necessary to serve the project. The BioMarin project would require one water meter per structure, and the Whistlestop/Eden Housing project would likely require a single meter for the building at the street with private submeters for each living unit. These water facilities would not have any specific significant environmental impacts requiring mitigation. The project applicants would pay appropriate development impact and utility connection fees toward ongoing improvements and maintenance of the water system. Water system improvements to be funded by the project applicants may include installation of a new fire hydrant at the corner of 3rd Street and Brooks Street. The San Rafael Fire Department is planning to require this new hydrant as part of an MMWD water main replacement along the portion of 3rd Street that adjoins the project site. The environmental impact would be less than significant, and no mitigation is necessary.

- b. **Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years.**

Facts in Support of Finding: As discussed on page 4.15-10 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would require compliance with MMWD conservation requirements that would help reduce the project's water use, in compliance with San Rafael General Plan 2020 and Climate Change Action Plan policies and programs for water conservation. Water supplies would be sufficient to serve the project and reasonably foreseeable future development during normal, dry or multiple dry years. The project's impact on water supplies would therefore be less than significant, and no mitigation is necessary.

- c. **The project would not result in a determination by the wastewater treatment provider that serves the project site that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Facts in Support of Finding: As discussed on page 4.15-11 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the CMSA Wastewater Treatment Plant would have adequate capacity to handle this increase (Dow, 2019). The project's impact would therefore be less than significant, and no mitigation is necessary.

- d. **The project would not generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals. The project would comply with federal, state, and local management and reduction statutes and regulations related to solid waste.**

Facts in Support of Finding: As discussed on page 4.15-12 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would be subject to the California Green Building Standards Code (CALGreen Code), which has been adopted as Chapter 12.23 of the San Rafael Municipal Code. The CALGreen Code contains requirements for waste reduction and recycling, including requirements that a minimum of 50 percent of construction waste be recycled and/or salvaged for reuse, that

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a construction waste management plan be prepared, and that readily accessible areas be provided to allow recycling by project occupants. The City of San Rafael would review the project to verify compliance with the CALGreen Code. The impact would therefore be less than significant, and no mitigation measure is necessary.

e. The Project will not have Cumulative Water, Wastewater, and Solid Waste Disposal Impacts.

Facts in Support of Finding: As discussed on page 4.15-13 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project's water consumption would not result in a significant impact on water supply or create the need for new or expanded water facilities. Individual projects proposed within the MMWD service area will need to calculate precise water demands and facilities needed to provide adequate long-term water supply. For these reasons, the effect of the project on water service, in combination with other past, present, and probable future projects, would be less than significant. The project would not result in or contribute to any significant cumulative water service impacts. For wastewater service, the geographic scope for assessing cumulative impacts is the service area of the San Rafael Sanitation District and the CMSA Wastewater Treatment Plant. The service demand from the project would not result in a significant impact on wastewater treatment plant capacity or create the need for new or expanded wastewater facilities. While sewer lateral connections would not be identified until projects are in the design stage, the existing lift station is expected to have adequate capacity to serve the additional flow. For these reasons, the effect of the project on wastewater service, in combination with other past, present, and foreseeable projects, would be less than significant. The project would not result in or contribute to any significant cumulative wastewater service impacts. For solid waste disposal service, the geographic scope for assessing cumulative impacts consists of the service area of Redwood Landfill through 2024. Comprehensive implementation of state and local waste reduction and diversion requirements and programs has and would continue to reduce the potential for exceeding existing landfill capacity. For these reasons, the project's effect on solid waste disposal service, in combination with other past, present, and probable future projects, would be less than significant. The proposed project would not result in or contribute to any significant cumulative solid waste disposal service impacts.

C. SIGNIFICANT IMPACTS THAT CAN BE AVOIDED OR REDUCED WITH MITIGATION

The City, as authorized by Public Resources Code Section 21081 and CEQA Guidelines Sections 15091 and 15092, identifies the following significant impacts that can be eliminated or reduced to a less-than-significant level with the implementation of mitigation measures recommended in the EIR. As summarized in Chapter 2 (pages 2-5 – 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, these mitigation measures are hereby adopted and incorporated into the description of the Project and their implementation will be monitored through the MMRP.

1) Air Quality

- a. Impact AIR-1: Fugitive dust emissions during project construction could adversely affect a substantial number of people.**

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Significant Impact

As discussed on pages 4.2-21 to 4.2-22 and summarized in Chapter 2 (page 2-5) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, grading and construction activities on the Project site will create a temporary potentially-significant Air Quality impact, which can be mitigated to a less-than-significant level with the preparation, approval and implementation of a basic measures to control dust and exhaust during construction (Attachment A: Mitigation Measure **MM AIR-1**).

Finding

The City finds that implementation of MM AIR-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

2) Cultural Resources

- a. **Impact CULT-1: The proposed project could cause a substantial adverse change in the significance of archaeological deposits that qualify as historical resources, as defined in CEQA Guidelines Section 15064.5. Archaeological deposits could be unearthed or otherwise displaced during project ground disturbance below fill at the project site.**

Significant Impact

As summarized in Chapter 2 (pages 2-5 – 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, although construction of the Project would have no impact on known archaeological resources, there is a possibility that previously unidentified archaeological resources and subsurface deposits are present within the project area, and Project construction could potentially disturb such resources and subsurface deposits within the Project area. This potential Cultural Resources impact can be mitigated to a less-than-significant level if archaeological resources are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and provide recommendations. (Attachment A: Mitigation Measure **MM CULT-1**).

Finding

The City finds that implementation of MM CULT-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and

Exhibit 2b

feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. Impact CULT-2: The proposed project could cause a substantial adverse change in the significance of an archaeological resource, as defined in CEQA Guidelines Section 15064.5. Archaeological resources could be unearthed or otherwise displaced during project ground disturbance below fill underlying the project site.**

Significant Impact

As summarized in Chapter 2 (page 2-6) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there are no formal cemeteries or known interred human remains within the Project area and no evidence of human remains was identified within the Project area. However, the potential for their presence cannot be entirely ruled out, since construction-related excavation could expose and disturb or damage previously undiscovered human remains. This Cultural Resources impact can be mitigated to a less-than-significant level if previously unknown human remains are found during construction, construction is halted and the project sponsor retains a qualified archaeologist to assess the previously unrecorded discovery and providing immediate notification to the Marin County Coroner and the notification to the NAHC if the remains are Native American. (Attachment A: Mitigation Measure **MM CULT-2**).

Finding

The City finds that implementation of MM CULT-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

3) Geology and Soils

- a. Impact GEO-1: During its design life, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground failure, and unstable soils, creating the potential for a significant risk to structures and human lives.**

Significant Impact

As discussed on page 4.5-13 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project would likely be subject to strong ground shaking from a seismic event, seismic-related ground failure, and unstable soils, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the

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City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-1**).

Finding

The City finds that implementation of MM GEO-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- b. **Impact GEO-2: Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives.**

Significant Impact

As discussed on pages 4.5-14 and summarized in Chapter 2 (page 2-7) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, Expansive, unstable, and/or corrosive soils at the project site could result in structural damage to project facilities, creating the potential for a significant risk to structures and human lives. This Geology and Soils impact can be mitigated to a less-than-significant level if the project applicants implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. (Attachment A: Mitigation Measure **MM GEO-2**).

Finding

The City finds that implementation of MM GEO-2 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

- c. **Impact GEO-3: The project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature.**

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As discussed on pages 4.5-14 to 4.5-15 and summarized in Chapter 2 (pages 2-7 to 2-8) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project could result in damage to, or destruction of, an as-yet unknown unique paleontological resource or site or unique geologic feature. This Geology and Soils impact can be mitigated to a less-than-significant level if, during construction, paleontological resources are encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. (Attachment A: Mitigation Measure **MM GEO-3**).

Finding

The City finds that implementation of MM GEO-3 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

4) Hazards and Hazardous Materials

- a. **Impact HAZ-1: Future occupants of the project site could be exposed to hazardous materials in indoor air from vapor intrusion during operation of the project.**

Significant Impact

As discussed on page 4.7-20 and 4.7-21 and summarized in Chapter 2 (page 2-8) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the project could expose future occupants of the project site to hazardous materials in indoor air from vapor intrusion during operation of the project. This Hazards and Hazardous Materials impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that

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changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

5) Hydrology and Water Quality

- a. **Impact HYDRO-1: Development of the proposed project could substantially degrade surface and groundwater quality.**

Significant Impact

As discussed on page 4.8-25 and 4.8-17 and summarized in Chapter 2 (page 2-9) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the development of the project could substantially degrade surface and groundwater quality. This Hydrology and Water Quality impact can be mitigated to a less-than-significant level if, prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits for the project. (Attachment A: Mitigation Measure **MM HAZ-1**).

Finding

The City finds that implementation of MM HAZ-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1) and Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact will be less than significant.

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6) Noise - Temporary/Construction Related Noise

- a. **Impact NOISE-1: Heavy equipment used in project construction could generate noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

Significant Impact

As discussed on pages 4.10-15 to 4.10-19 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction noise related to grading and construction activities on the site related to the Project will create a temporary, potentially-significant Noise impact by exposing sensitive receptors and adjacent residences to construction noise that exceeds limits allowed by the City's Noise Ordinance. This Noise impact can be mitigated to a less-than-significant level by requiring the applicant (BioMarin and Whistlestop) to use of noise-reducing measures included in the specifications and that shall be described and included in applicable contract specifications: After the Whistlestop/Eden Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA Lmax is not exceeded at the Whistlestop/Eden Housing project; the BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: (Attachment A; Mitigation Measure **MM NOISE-1a, 1b, 1c, and 1d**).

Finding

The City finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- b. **Impact NOISE-2: The project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance.**

Significant Impact

As discussed on pages 4.10-19 to 4.10-20 and summarized in Chapter 2 (pages 2-10 to 2-11) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's mechanical equipment could generate operational noise in excess of standards established in San Rafael General Plan 2020 or the noise ordinance. The operation of the new buildings would include the use of new mechanical heating, ventilation, and air conditioning (HVAC) systems. Information regarding the noise-generating characteristics and locations of the equipment was not available at the time this analysis was conducted. Without standard controls in place, noise from mechanical equipment could potentially exceed 60 dBA Lmax/50 dBA Leq during daytime or 50

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dBA Lmax/40 dBA Leq during nighttime at the nearest residential receptors and could exceed 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. The potential impact can be reduced to less than significant levels shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA Lmax/50 dBA Leq during daytime or 50 dBA Lmax/40 dBA Leq during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA Lmax/55 dBA Leq during both daytime and nighttime at the nearest commercial land uses. (Attachment A; Mitigation Measure **MM NOISE-2**).

Finding

The City finds that implementation of MM NOISE-2 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would less than significant.

- c. **Impact NOISE-3: Project construction could expose persons to or generate excessive groundborne vibration levels.**

Significant Impact

As discussed on pages 4.10-20 to 4.10-22 and summarized in Chapter 2 (pages 2-10 to 2-12) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, Construction activities associated with the proposed project would result in varying degrees of groundborne vibration, depending on the equipment, activity, and soil conditions. Once constructed, the operation of the proposed project would not cause any vibration or result in excessive vibration impacts because no vibration-generating activities or land uses would occur on the project site. Implementation of the mitigation measures would further reduce the potential vibration impacts by ensuring that any affected sensitive receptors would have the ability to lodge complaints and that responses to the complaints would be provided. Therefore, with the identified mitigation, this impact will be less than significant. (**Attachment A; Mitigation Measure MM NOISE-1a, 1b, 1c, and 1d**).

Finding

The City finds that implementation of MM NOISE-1 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would less than significant.

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7. Transportation

- a. **Impact TRANS-1:** The project would generate approximately 2,453 daily vehicle trips, with 236 vehicle trips during the weekday AM peak hour and 236 vehicle trips in the PM peak hour. Most of the vehicle trips would be generated by the BioMarin project (1,863 daily, 203 AM peak hour, and 191 PM peak hour trips). The project would increase single-occupancy vehicular travel and vehicular traffic along key roadways and intersections, as well as US 101. Maintaining the existing BioMarin travel mode shares would conflict with citywide policies and programs established to manage congestion and improve mobility as documented in San Rafael General Plan 2020.

Significant Impact

As discussed on pages 4.13-22 to 4.13-22 and summarized in Chapter 2 (pages 2-14 to 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, any successive owner or lessor of the site shall monitor, on an annual basis, all traffic BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15 percent reduction is identified for three consecutive years. This mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-1**).

Finding

The City finds that implementation of MM TRANS-1 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- b. **Impact TRANS-5:** The project would add construction-related vehicle trips to City of San Rafael and other jurisdictional roadways, creating temporary traffic hazards. These conditions would conflict with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).

Significant Impact

As discussed on pages 4.13-23 and summarized in Chapter 2 (page 2-13) of the DEIR,

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and supported by evidence contained within the entirety of the record of proceedings, Project construction would generate trips by trucks and other construction-related vehicles. During the construction period, construction would occur between 7:00 AM and 6:00 PM, Mondays through Fridays, and between 9:00 AM and 6:00 PM on Saturdays, and would be based on City of San Rafael restrictions. No construction would be allowed on Sundays or holidays or outside the weekday and Saturday hours described above, unless a request is made and approved by the Chief Building Official. Implementation of mitigation measure for Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets. (Attachment A; Mitigation Measure **MM TRANS-5**).

Finding

The City finds that implementation of MM TRANS-5 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- c. **Impact TRANS-6: Construction traffic would be staged and would use the roadway lanes adjacent to the site. This traffic would cause deterioration of pavement on 3rd Street, Brooks Street, 2nd Street and Lindaro Street. These conditions would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).**

Significant Impact

As discussed on pages 4.13-23 to 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project's construction traffic would lead to further deterioration of roadways near the project site, including along 3rd Street between Lindaro Street and Brooks Street, Brooks Street between 3rd Street and 2nd Street, 2nd Street between Brooks Street and Lindaro Street, and Lindaro Street between 2nd Street and 3rd Street. Implementation of mitigation measures shall require the project applicants to improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-construction" study, followed by a "post-construction" survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval. (Attachment A; Mitigation Measure **MM TRANS-6**).

Finding

The City finds that implementation of MM TRANS-6 will reduce this impact to a level

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of less than significant. As authorized by Public Resources. Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- d. **Impact TRANS-7: Access to the project would be provided from six unsignalized driveways. Motorist, pedestrian, and bicyclist sight lines to and from these driveways would be constrained if parking is allowed next to the driveways or landscaping blocks views. These conditions would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Road Design).**

Significant Impact

As discussed on pages 4.13-24 and summarized in Chapter 2 (page 2-13) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground. The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways. The implementation of these two mitigation measures would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-7a and 7b**).

Finding

The City finds that implementation of MM TRANS-7 will reduce this impact to a level of less than significant. As authorized by Public Resources. Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- e. **Impact TRANS-8: The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including at the corners of the following intersections peripheral to the project site where curb ramps are not Americans with Disabilities Act (ADA)-compliant: 3rd Street and Lindero Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindero Street. These conditions are inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of

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the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the curb ramps at the four intersections adjacent to the project site are not in compliance with ADA design guidelines, presenting challenging travel conditions for mobility-impaired persons. The project would increase the number of pedestrians using nearby sidewalks and curb ramps, including the existing non-compliant ramps at the four intersections peripheral to the project site. The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. The implementation of this mitigation measure would reduce the impact to less than significant. (Attachment A; Mitigation Measure **MM TRANS-8**).

Finding

The City finds that implementation of MM TRANS-8 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- f. **Impact TRANS-9: Currently a marked crosswalk, with curb ramps and pedestrian signals, is not present on the west leg of the 3rd Street and Lindaro Street intersection. The project would increase the number of pedestrians crossing 3rd Street at this location. Pedestrians walking to or from the project site may be inclined to cross the unmarked west leg instead of taking the more circuitous marked route (i.e., crosswalks across the intersection's south leg and east leg, as well as across the Walgreens driveway on the north leg). By increasing the number of pedestrians at this location, the project would worsen hazards by creating greater potential for conflicts between pedestrians and vehicles. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-24 to 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the provision of a marked crosswalk on the west leg of the intersection would create a more direct connection to downtown for pedestrians walking to or from the project site. The intersection's level of service would not degrade with the provision of the crosswalk. Peak hour vehicular speeds along 3rd Street would remain the same with or without the western crosswalk. The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the

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driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. (Attachment A; Mitigation Measure **MM TRANS-9**).

Finding

The City finds that implementation of MM TRANS-9 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- g. **Impact TRANS-10: Currently, pedestrian crossings of 3rd Street at Brooks Street are prohibited. The closest signalized crossing is located at A Street, which is about 240 feet to the west. The Whistlestop/Eden Housing project is expected to increase pedestrian crossing demands across 3rd Street at Brooks Street, as this route would offer the most direct path to and from downtown from the project site. Potential conflicts could arise as pedestrians use this unmarked location to cross 3rd Street's three westbound vehicular travel lanes. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4b (Street Design Criteria to Support Alternative Modes) and Policy C-11 (Alternative Transportation Mode Users).**

Significant Impact

As discussed on pages 4.13-25 and summarized in Chapter 2 (page 2-14) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, the Transportation Impact Study concluded that, considering current illegal pedestrian crossings, project-related demand, and a shift of some of the pedestrians who currently cross at A Street, the warrant for the installation of a Pedestrian Hybrid Beacon across the east leg of 3rd Street and Brooks Street would be met during the weekday PM peak hour. The Pedestrian Hybrid Beacon would operate at LOS A. The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. (Attachment A; Mitigation Measure **MM TRANS-10**).

Finding

The City finds that implementation of MM TRANS-10 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and

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feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- h. **Impact TRANS-11:** Vehicles turning left from southbound Brooks Street to eastbound 2nd Street currently have limited visibility to eastbound vehicles at this side-street stop signcontrolled intersection due to the siting of the building at the northwest corner of the intersection. Southbound vehicles must proceed into the crosswalk on the north leg of the intersection, blocking pedestrian crossings, to increase the motorist's view of oncoming eastbound traffic. This condition would be exacerbated by the addition of project-related traffic, resulting in an increased potential for vehicle-vehicle and vehicle-pedestrian conflicts. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, by prohibiting egress from southbound Brooks Street onto 2nd Street, the limited visibility condition for vehicles turning left from southbound Brooks Street to eastbound 2nd Street would be eliminated. Some traffic would have to make additional turns, but overall impacts on adjacent intersections would be minor, with no level of service violations and with some improvements due to one-way flows. Travel speeds on 2nd Street would be negligibly affected. Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (Attachment A; Mitigation Measure MM TRANS-11).

Finding

The City finds that implementation of MM TRANS-11 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- i. **Impact TRANS-12:** The two proposed exit driveways to Brooks Street, one from the Whistlestop/Eden Housing project and the other from the BioMarin project access road, would provide limited sight lines to Brooks Street. This condition could lead to increased conflicts between egressing vehicles and other travelers on Brooks

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Street, including vehicles, pedestrians, and bicyclists. This condition would be inconsistent with San Rafael General Plan 2020 Policy C-4 (Safe Roadway Design).

Significant Impact

As discussed on pages 4.13-26 and summarized in Chapter 2 (page 2-15) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, both egressing driveways would have limited sight lines due to the proposed buildings. The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (Attachment A; Mitigation Measure **MM TRANS-12**).

Finding

The City finds that implementation of MM TRANS-12 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and feasible. Therefore, with the identified mitigation, this impact would be less than significant.

- j. **Impact TRANS-13: Emergency vehicles would have access to the project site via the Lindero Street driveways, the 3rd Street driveway, and the southernmost Brooks Street driveway. The project applicants propose to install sliding gates across the 3rd Street and southernmost Brooks Street driveways. The gates could affect emergency vehicle access if emergency services personnel could not open the gates. These conditions would be inconsistent with San Rafael General Plan 2020 Program C-4a (Street Pattern and Traffic Flow).**

Significant Impact

As discussed on pages 4.13-26 and 4.13-27 and summarized in Chapter 2 (pages 2-15) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the sliding gates across the 3rd Street and southernmost Brooks Street driveways would need to be accessible by emergency service providers. The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers. (Attachment A; Mitigation Measure **MM TRANS-13**).

Finding

The City finds that implementation of MM TRANS-13 will reduce this impact to a level of less than significant. As authorized by Public Resources Code Section 21081(a)(1), Title 14, and California Code of Regulations Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above. The City further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that this mitigation is appropriate and

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feasible. Therefore, with the identified mitigation, this impact would be less than significant.

D. SIGNIFICANT IMPACTS THAT CANNOT BE FULLY MITIGATED TO A LEVEL OF LESS THAN SIGNIFICANT

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091 and 15092, the FEIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through the incorporation of mitigation measures. The FEIR concluded that although specific mitigation measures have been identified for the following Project Transportation and Circulation impacts, the impacts would nonetheless be considered significant and unavoidable, since the roadway intersections at issue are outside of the City's jurisdiction and require authorization and permits by other agencies. Although the Commission is recommending adoption of the identified mitigation measures as part of Project approval, since the City cannot legally implement mitigation measures outside of its jurisdiction, despite the incorporation of Mitigation Measures outlined in the EIR and in this Resolution, should the City wish to approve the Project notwithstanding these significant and unavoidable impacts, the City must adopt a statement of overriding considerations included herein:

1) Land Use & Planning

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

Significant Impact.

As discussed in Section 4.13, Transportation, the project would add a significant number of daily vehicle trips to this area of San Rafael, and levels of service at nearby intersections would be degraded. At the projected traffic levels, no mitigation measures would be able to reduce impacts to less-than-significant levels. The project would have to be significantly reduced in scale to reduce the number of projected trips, and this reduction would possibly conflict with the City's desire to increase downtown development for the purposes of infill development and economic development. Thus, such a reduction in scale was not considered feasible for the project, and the impact remains significant and unavoidable.

Facts in Support of Finding: As discussed on pages 4.9-9 of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project is currently within the 2/3 MUE land use designation per the *San Rafael General Plan 2020*. The project could result in a conflict with *San Rafael General Plan 2020* Policy LU-2, which specifies that new development should only occur when adequate traffic conditions and circulation improvements are available. Refer to Impacts TRANS-2, TRAN-3, and TRANS-4 (see Section 4.13, Transportation, of the DEIR). As shown for these three potential impacts, no mitigation measure would be available to reduce these impacts to less-than-significant levels. Thus, this potential impact would remain significant and unavoidable.

2) Transportation

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

Significant Impact.

The number of employees at the BioMarin site would need to be reduced by 80 percent (from 550 employees to 112 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Provision of a second off-ramp lane and southbound auxiliary lane on US 101 would be impractical.

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

Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

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

Significant Impact.

The project would increase traffic along 3rd Street between Hetherton Street and D Street, exacerbating vehicular delays and reducing travel speeds along this key arterial roadway segment. The number of employees at the BioMarin site would need to be reduced by 28.5 percent (from 550 employees to 393 employees) compared to the proposed use to alleviate this impact. A more aggressive TDM program (see Mitigation Measure TRANS-1) than is currently undertaken at BioMarin could help reduce traffic volumes and this impact, but not to an acceptable level. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations.

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Finding

As discussed in Chapter 4.13 (pages 4.13-22) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

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

Significant Impact.

Under Cumulative-Plus-Project conditions, the project would result in added traffic back-ups along westbound 3rd Street at Tamalpais Avenue West. Implementing more aggressive TDM measures (see Mitigation Measure TRANS-1) could assist in reducing the increased traffic demand, but the impact would still be significant. Widening 3rd Street to provide an additional travel lane would be impractical due to public right-of-way limitations. The number of employees at the BioMarin site would need to be reduced by 58.3 percent (from 550 employees to 229 employees) compared to the proposed use to alleviate this impact.

Finding

As discussed in Chapter 4.13 (pages 4.13-22 to 4.13-23) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, there is no feasible mitigation measures available to reduce this significant and unavoidable Transportation impact to a less-than-significant level that can be implemented/authorized by the City of San Rafael.

E. IMPACT OVERVIEW

1) **Significant Irreversible Environmental Changes**

Pursuant to CEQA Guidelines Section 21100(b)(2)(B), an EIR shall include a discussion of significant irreversible environmental changes that would result from implementation of a project.

CEQA Guidelines Section 15126.2(c) describes irreversible environmental changes in the following manner: "Uses of nonrenewable resources during the initial and continued phases of the Project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely. Primary impacts and, particularly, secondary impacts (such as highway improvement which provides access to a previously inaccessible area) generally commit future generations to similar uses. Also, irreversible damage can result from environmental accidents associated with the Project. Irretrievable commitments of resources should be evaluated to assure that such current consumption is justified."

As discussed in Chapter 6.1 (page 6-1) of the DEIR, and supported by evidence contained within the entirety of the record of proceedings, construction activities associated with the proposed structures at the site of the BioMarin and Whistlestop/Eden Housing Project would

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be permanent buildings; therefore, their installation would constitute an irreversible use of these lands, as it is unlikely that the buildings would be removed. The proposed project would irretrievably commit materials to the construction and maintenance of the new buildings. Nonrenewable resources such as sand, gravel, and steel, and renewable resources such as lumber, would be consumed during project construction. In addition, the construction and operation of the proposed project would result in the use of energy, including electricity and fossil fuels. While the consumption of such resources associated with construction would end upon completion of the proposed construction, the consumption of such resources associated with operation would represent a long-term commitment of those resources.

Based on the preceding and on the entirety of the record of proceedings, the Planning Commission consequently finds that no significant irreversible effects will result from implementation of the Project.

2) Growth Inducement

Pursuant to CEQA Guidelines Section 15126.2(d), a project is considered growth-inducing if it would directly or indirectly foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Examples of projects likely to have significant growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and development of new residential subdivisions or industrial parks in areas that are currently only sparsely developed or are undeveloped. Typically, redevelopment projects on infill sites that are surrounded by existing urban uses are not considered growth-inducing because redevelopment by itself usually does not facilitate development intensification on adjacent sites.

As discussed in Chapter 6.3 (page 6-2) of the DEIR and supported by evidence contained within the entirety of the record of proceedings, the Project would be developed on an existing disturbed but vacant site in downtown San Rafael. Services are readily available in this area. The project site is surrounded by existing commercial and residential development. The proposed project would not require wastewater or water lines that would cross undeveloped lands and create the potential for new development. No major road improvements would be associated with the proposed project except that, over the long term, some local improvements to vehicular, pedestrian, and bicycle circulation may occur. The significant amount of proposed on-site commercial development, with 207,000 square feet of laboratory and office space for BioMarin and 18,000 square feet of health services-related facilities for Whistlestop/Eden Housing, could result in an increased demand for housing within San Rafael. According to the Marin County Community Development Agency, the rental vacancy rate in Marin County is currently below 3 percent, when a “healthy” rate is closer to 6 or 7 percent (City of San Rafael, 2019). Thus, the demand for a limited number of housing units tends to drive up prices for local housing. According to the most recent San Rafael General Plan Housing Element, more than 87 percent of those employed in San Rafael reside in other cities, implying an imbalance of jobs and housing (City of San Rafael, 2019). This imbalance leads to increased commuting demands and associated traffic, air quality, and noise impacts. Recently, the City of San Rafael approved a project at 703-723 3rd Street that will add 120 residential units within three blocks of the project site. This residential development would help to offset the increased non-residential development of the proposed project. However, there could remain a need for more housing for project employees. In this sense, the project would have growth-inducing impacts related to the need for more local housing.

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Based on the preceding and on the entirety of the record of proceedings, the Planning Commission consequently finds that no significant growth-inducing effects will result from implementation of the Project.

F. REVIEW OF PROJECT ALTERNATIVES

The CEQA Guidelines indicate that an EIR must “describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives.” (Guidelines§ 15126.6[a].)

The Project Alternatives selected for this EIR were formulated considering the Objectives of the City of San Rafael and BioMarin/Whistlestop/Eden Housing’s Objectives stated in Chapter 3 (pages 3.9 to 3.10) and outlined in Chapter 5 of the DEIR (pages 5-1 - 5-28). Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is then used to consider reasonable, feasible options for minimizing environmental consequences of a project.

The Project Alternatives analyzed in the following sections include:

- No Project/No Medical Office Uses
- Reduced Scale Alternative
- Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing Project Alternative
- Code-Compliant BioMarin and Whistlestop/Eden Housing Project Alternative

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

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

Finding

The Planning Commission (1) recommends rejection of this No Project Alternative on the basis that it fails to meet basic project objectives and is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

The No Project Alternative fails to meet any of the Project objectives, specifically:

- This Alternative would not improve the site, which would remain as undeveloped.
- No new infrastructure or traffic improvements would be included in this Alternative.
- This Alternative would not allow Whistlestop/Eden Housing to develop 67 units of much needed senior affordable housing.
- The No Project Alternative is also infeasible for policy reasons, as it fails to comply with the intent of the City’s *General Plan 2020*, which promotes economic vitality (Policy EV-2 Seek, Retain, and Promote Businesses that Enhance San Rafael) and an overarching vision for the Downtown Area (NH-55. Design Excellence).

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- From a policy and social perspective, without development of the proposed Project, redevelopment of the Project site would likely be postponed indefinitely, new laboratory and office facilities would not be created on-site, and BioMarin would be required to find an alternate location(s) for the Project. In addition, Whistlestop / Eden Housing would not be able to build the Healthy Aging Campus as a result of this No Project Alternative, and, therefore would continue to experience the same operational loads and space challenges with regard to future modernization.
2. **Alternative 2: Reduced Scale Alternative:** Alternative 2 would consist of a project that is similar to the proposed project but reduces the amount of overall proposed laboratory and office space of the BioMarin project, thereby reducing the anticipated peak hour traffic trips and other impacts. This alternative would reduce the overall number of employees at BioMarin from 550 to 229 employees, or by 58.3 percent. This reduction in employees could result in the project's significant, unavoidable traffic impacts at the following locations becoming less-than-significant impacts:
- 3rd St/Tamalpais Ave West intersection (cumulative-plus-project condition during AM and PM peak hour).
 - 3rd St between Hetherton St and D St (westbound during AM peak hour).

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

Impacts

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

Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.

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- In order to address the remaining 60% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- General site improvements included as part of the Project would be included in this Alternative.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space shortfall with regard to company needs.
- BioMarin would not feasibly be able to build this Alternative, and would therefore not donate the site the Whistlestop/Eden Housing. No Healthy Aging Campus would be developed as a result of this Alternative.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County and no Healthy Aging Campus would be developed. Both BioMarin and Whistlestop / Eden Housing would not be able to develop the Project in downtown San Rafael.

3. **Alternative 3: Code-Compliant BioMarin and Off-Site Whistlestop/Eden Housing project:** This alternative would assume a reduced height BioMarin project that would not require General Plan amendments for FAR, height bonuses, or parking modifications;

BioMarin Project under Alternative 3

Alternative 3 would reduce the building height of the BioMarin project to 54 ft. to comply with existing General Plan provisions and zoning for the site, with no bonus exemptions and no rezoning to Planned Development for the BioMarin portion of the site. The FAR would be increased from the proposed 0.90 to 1.50, as allowed by existing General Plan provisions and zoning, allowing a total of 199,649 sq. ft. for BioMarin on the site. The FAR limit would not consider combining the site with other nearby BioMarin facilities (as addressed in Table 3-3 of Chapter 3 of the DEIR). This Alternative assumes a total of 220 parking spaces would be required to be provided on the site. This would be in addition to public parking that is assumed to allow the height bonus.

Whistlestop/Eden Housing Project under Alternative 3

This alternative assumes that the Whistlestop/Eden Housing project would be located off the project site at 930 Tamalpais Avenue, where Whistlestop is currently located. It is assumed that 41 units of affordable senior housing (one of these would be a manager's unit) would be provided in a five-story building similar to the design proposed in 2016. This project assumes residential units on the third through fifth floors and the Whistlestop Active Aging Center, with classrooms, offices, and meeting rooms on the second and third floors. The ground level would contain parking and utility uses, along with the Jackson Café. Access to transit would be available via (1) van service (Marin's Whistlestop Wheels Para Transit) with access at the ground-level garage, (2) buses at the adjacent San Rafael Transit Center, and (3) regional rail at the SMART station located at the east edge of the site. A total of 20 parking spaces would be provided in a street level garage for use by Whistlestop employees and guests.

Impacts

Alternative 3 would meet all of the project objectives except four objectives (1, 2, 3, and 12). Alternative 3 would have reduced square footage for the BioMarin buildings and would not

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meet BioMarin's needs for R&D and laboratory infrastructure. The relocation of the Whistlestop/Eden Housing project to its Tamalpais Avenue site would conflict with the second objective above. This alternative would also have fewer senior housing units and thus would conflict with the goal of providing 67 affordable rental housing units for seniors.

Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 10% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- Whistlestop/Eden Housing would not be able to develop the Healthy Aging Campus and would not develop 67 units of senior affordable housing.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / Eden Housing would be required to develop a problematic project at the original location with fewer units.

4. Alternative 4: Code-Compliant BioMarin and Whistlestop/Eden Housing project:

Under Alternative 4, the FAR would be increased from the proposed 0.90 to 1.50, allowing a total of 199,649 square feet for both BioMarin (181,649 sq. ft.) and the non-residential portion of Whistlestop/Eden Housing (18,000 sq. ft.). The Whistlestop/Eden Housing project would occupy 0.34 acre of the project site under this alternative and is assumed to be approximately the same as the proposed project in scale and height, given that the height bonuses allowed by the provision of affordable housing. It is assumed that the BioMarin portion of the site would consist of two buildings similar in scale to proposed Building B, or about 235 ft. long by 108 ft. wide (or 23,380 sq. ft.). With 181,649 sq. ft. for BioMarin, both Buildings A and B would be four stories in height. This alternative may have reduced square footage for laboratory space.

Unlike Alternative 3, Alternative 4 is not assumed to have public parking on the site. The project site is located within the Downtown Parking District which waives parking requirements for the first 1.0 of FAR. With this alternative having an FAR of 1.50, parking required for BioMarin would be approximately 210 parking spaces. It is assumed that an eight-story parking structure of about 150 ft. by 170 ft. could be constructed on the corner of 2nd St. and Lindero St.. The parking structure height results from the fact that only 35 cars can be provided on each floor, given circulation requirements. Assuming 10 feet per floor,

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this parking structure would be about 60 ft. in height, or about the same size as the proposed BioMarin building height for the proposed project.

Alternative 4 would meet all of the project objectives as listed at the beginning of this chapter except the provision of the same square footage for laboratory space and the following objective *“Use of larger parking structures on the perimeter of the BioMarin campus to keep the visible bulk away from major views and to reduce car trips along 2nd and 3rd Streets, while creating an environment more easily navigated by employees and visitors.”*

Impacts

Alternative 4 would meet most of the project objectives as listed at the beginning of this chapter except two main objectives (1 and 12). Alternative 4 would have reduced square footage for the BioMarin buildings and would not meet BioMarin’s needs for R&D and laboratory infrastructure and would require a large parking structure constructed on site. Significant and Unavoidable Impacts to Land Use and Planning and Transportation would continue to exist under this Alternative

Finding

The Planning Commission (1) recommends rejection of this alternative on the basis that it fails to meet basic project objectives, is infeasible for social and policy reasons; and (2) finds that each and any of these grounds separately and independently provide sufficient justification for rejection of this Alternative.

Facts in Support of Finding

- This Alternative achieves some, but not all, of the Project objectives, including failing to achieve the primary Project objective for the required laboratory/office space for BioMarin.
- In order to address the remaining 30% of laboratory/office space removed from this Alternative, BioMarin would be required to find alternative locations that may not be as centrally located or have ease of access or available parking.
- BioMarin would continue to require additional laboratory/office space throughout San Rafael and Marin County and, therefore, would continue to experience the same space challenges with regard to future expansion and space needs at the main SRCC campus.
- Significant and Unavoidable Impacts to Land Use and Planning and Transportation would occur under this Alternative

From a social and policy perspective, BioMarin would continue to have a space shortage and would therefore continue to investigate other areas in San Rafael and Marin County. Whistlestop / Eden Housing would be required to develop a problematic project at the original location with fewer units.

Environmental Superior Alternative

Consistent with CEQA Guidelines Section 15126.6(e), an environmentally superior alternative must be identified among the alternatives that were studied. The DEIR concludes (Chapter 5; page 5-26) that the Environmentally Superior Alternative is the Alternative 2: Reduced Scale project for the following reasons:

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- The smaller scale BioMarin Buildings A and B would reduce some of the local traffic congestion.
- The reduction in building height for Buildings A and B would also result in slightly reduced visual impacts for the project when viewed along 2nd Street and 3rd Street.
- Alternative 2 would retain the Whistlestop/Eden Housing project on the project site, which is a preferred site compared to its existing location at 930 Tamalpais Avenue.
- Alternative 2 would meet all of the project objectives as listed at the beginning of this chapter except the following primary objective:
 - Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.
- Compared to the proposed project, the size of Alternative 2 would be significantly reduced, which would not meet the identified laboratory and office space needs for BioMarin. Whistlestop/Eden Housing would be unchanged from the proposed project; thus, the portion of this objective addressing the Healthy Aging Center and affordable senior housing would be met. This alternative would not meet one of the primary objectives of BioMarin. However, if the BioMarin part of Alternative 2 were not developed because the project's primary objective could not be met, the Whistlestop/Eden Housing project would also not occur.

BE IT FURTHER RESOLVED, that the Planning Commission recommends to the City Council approval of an exception to the City-adopted level of service traffic standards set forth in San Rafael General Plan 2020 Circulation Element Policy C-5 (Traffic Level of Service Standards) per Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review) based on the statement of overriding considerations identified below;

b) adoption of the following findings of Statement of Overriding Considerations with the recommendation that the proposed public benefits of this project outweigh its impacts; and c) approval of the MMRP presented in attached Attachment A, finding that the MMRP has been prepared in accordance with the CEQA Guidelines:

G. STATEMENT OF OVERRIDING CONSIDERATIONS

Although the Environmental Superior Alternative would reduce a majority of the significant and unavoidable impacts to less than significant levels, it would not achieve the primary objective for BioMarin:

Development of an underutilized vacant site in close proximity to BioMarin's existing San Rafael headquarters to accommodate BioMarin's planned expansion of its campus through the addition of a new laboratory and office space flexible in design and built in a manner that can accommodate the necessary square footage and building heights to support the R&D and

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laboratory infrastructure requirements needed for BioMarin's planned expansion, while also accommodating the needs of Whistlestop/Eden Housing and its use of a portion of the project site for its Healthy Aging Center and affordable senior housing.

As such, BioMarin would not build the project which would in turn prevent the Whistlestop/Eden Housing project from occurring. Therefore, the project as proposed, will require the City of San Rafael Planning Commission to recommend adoption of the following Statement of Overriding Considerations based on information in the FEIR and all other information in the record, including the proposal of public benefits outlined in the January 10, 2020 Development Agreement Term Sheet from BioMarin to the City of San Rafael (on file with the Department of Community Development). The City recognizes that significant and unavoidable impacts would result from implementation of the Project.

Pursuant to Section F of this Resolution, the Planning Commission determines that the Proposed Project provides benefits that outweigh the any of the environmental superior alternative. The Planning Commission hereby declares that, pursuant to State CEQA Guidelines Section 15093, the Commission has balanced the benefits of the Project against any unavoidable environmental impacts in determining whether to approve the Project. Pursuant to the State CEQA Guidelines, if the benefits of the Project outweigh the unavoidable adverse environmental impacts, those impacts may be considered "acceptable."

The Planning Commission hereby declares that the EIR has identified and discussed significant effects which may occur as a result of the Project. With the implementation of the Mitigation Measures discussed in the EIR and adopted by this Resolution, these effects can be mitigated to a level of less than significant except for the two unavoidable significant impact discussed in Section F of this Resolution.

The Planning Commission hereby declares that it has made a reasonable and good faith effort to eliminate or substantially mitigate the potential impacts resulting from the Project. The Planning Commission hereby declares that to the extent any Mitigation Measures recommended in the EIR would not be incorporated, such Mitigation Measures are infeasible because they would impose restrictions on the Project that would prohibit the realization of specific economic, social and other benefits that this Planning Commission finds outweigh the unmitigated impacts.

The Planning Commission further finds that all alternatives set forth in the EIR are rejected as being either inconsistent with project objectives, infeasible because they would prohibit the realization of specific policy, social and other benefits that this City Council finds outweigh any environmental benefits of the alternatives, or are otherwise not environmentally superior.

The reasons discussed below summarize the benefits, goals and objectives of the Project, and provide, in addition to the findings, the detailed rationale for adoption of the Project. Collectively, these overriding considerations are sufficient to outweigh the adverse environmental impacts of the Project.

The Planning Commission hereby declares that, having reduced the adverse significant environmental effect of the Project to the extent feasible by recommending adoption of the Mitigation Measures contained in this Resolution, having considered the entire administrative record on the Project, and having weighed the benefits of the Project against its unavoidable adverse impact after mitigation, the Planning Commission recommends that each of the following social, economic and environmental benefits of the Project separately and individually

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outweigh the single potential unavoidable adverse impact and render that potential adverse environmental impact acceptable based upon the following overriding considerations:

The San Rafael Planning Commission recommends adoption of the following Statement of Overriding Considerations based on information in the FEIR, other information in the record including the proposal of public benefit outlined in the January 10 Development Agreement terms sheet from BioMarin (on file with the Department of Community Development). The City recognizes that significant and unavoidable impacts would result from implementation of the project. The City has imposed all feasible mitigation to reduce the project's significant impacts to a less-than-significant level. The City further finds that except for the project, all other alternatives set forth in the Draft EIR are infeasible because they would prohibit the realization of the project objectives of providing needed retail services. Having adopted all feasible mitigation measures and recognized the significant, unavoidable environmental effects, the City of San Rafael hereby finds that the benefits outweigh and override the significant unavoidable effects for the reasons stated below.

The reasons discussed below summarize the benefits, goals and objectives of the proposed project, and provide, in addition to the findings, the detailed rationale for the project. Collectively, these overriding considerations would be sufficient to outweigh the adverse environmental impacts of the project.

1. Furtherance of City Goals and Policies

The proposed project will implement, and is consistent with, City goals, objectives, policies and programs for the Project Site described in the following City General Plan Elements: Land Use, Neighborhood, Sustainability, Circulation, Economic Vitality, and Safety, as thoroughly analyzed in the Project DEIR. The project will also support San Rafael's Objectives and Design Guidelines for the Downtown by proposing a design that provides an entry and focal point for the 2nd/3rd Street corridor, advances the "Alive after Five" policy, and allows expansion of a major downtown employer. Lastly the BioMarin development will allow the relocation and development of a new Whistlestop Healthy Aging Center and 67 affordable units for seniors in the downtown

2. Development of an Existing Infill Site

The project will facilitate the development of an infill site in an existing urbanized area in San Rafael and will result in regional environmental benefits because it will not require the extension of utilities or roads into undeveloped areas, is convenient to major arterials, services and transit, including the SMART station, and will not directly or indirectly lead to the development of greenfield sites in the San Francisco Bay Area.

3. Voluntary donation of development area

BioMarin is donating the Northwestern Portion of their site to Whistlestop/EDEN housing for development of a healthy aging campus and affordable senior housing. This donation, along with a land swap to BioMarin of another property owned by Whistlestop in San Rafael yields a net donation by BioMarin of approximately \$1.2 million as of June 2018, in its then current as-is condition. This obligation shall be required prior to the issuance of any certificate of occupancy for development on the R&D Development Property.

4. Voluntary monetary contribution for Shuttle Service

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BioMarin will contribute, \$400,000 (\$100,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.

5. Voluntary monetary contribution for Signal Synchronization

BioMarin will contribute \$500,000 (\$125,000 each year commencing on the first anniversary of the DA for four years) to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City.

6. Development opportunity for Whistlestop/Eden Housing

The remediation performed by PG&E of this site was not performed on the entire site. In addition, the level of cleanup was not such that would met the State DTSC standards for residential use of the property. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is currently conducting the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC's Voluntary Cleanup Program. Following this cleanup, the site would be able to accommodate residential use. BioMarin shall complete such second phase of remediation prior to commencement of construction and development activities for the 999 3rd Street Project and the development of the Whistlestop component of the project.

7. Leaseback donation for Whistlestop/Eden Housing

BioMarin to conduct a land exchange as part of the donation of the parcel to Whistlestop/Eden Housing. BioMarin shall donate to Whistlestop a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

8. Provide Public Meeting Space and urban open space

BioMarin provides a portion of the 999 3rd Street Project consisting of approximately 3,500 square feet of retail space and approximately 6,000 square feet of landscaped plaza and located at the corner of 3rd Street and Lindaro Street, shall be open to the public during daytime hours (from 9 a.m. to 5:00 p.m.).

9. Contributions to Pedestrian/Bicycle safety

BioMarin shall develop a class II bike lane on Lindaro Street from 3rd Street to Anderson Dr prior to completion of Phase I. BioMarin shall also contribute to City's enhancement of pedestrian safety by improving the sidewalks and crosswalk design at the corner of Lindaro Street and 2nd Street prior to completion of Phase I.

10. Public Parking

Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.

H. ADOPTION OF MITIGATION MONITORING AND REPORTING PROGRAM

Exhibit 2b

Pursuant to Public Resources Code section 21081.6, the Planning Commission hereby recommends adoption of the Mitigation Monitoring and Reporting Program attached to this Resolution as Attachment A, to be made a condition of approval of the Revised Project. In the event of any inconsistencies between the Mitigation Measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

I. STAFF DIRECTION

A Notice of Determination shall be filed with the County of Marin and the State Clearinghouse within five (5) working days of final Project approval.

BE IT FURTHER RESOLVED, that the Planning Commission recommends to the City Council approval of an exception to the City-adopted level of service traffic standards set forth in San Rafael General Plan 2020 Circulation Element Policy C-5 (Traffic Level of Service Standards) per Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review). The Exception is warranted and substantiated based on the finding that the project provides significant economic, social, and/or other benefits to the community that substantially outweigh the project's impacts on circulation network. The specific benefits found to outweigh the impacts are identified in the Statement of Overriding considerations section above. Furthermore, the Commission finds that all feasible mitigation measures have been required of the project.

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

Attachment A – Mitigation Monitoring and Reporting Program (MMRP)

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ATTACHMENT A: MITIGATION MONITORING AND REPORTING PROGRAM

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
AIR QUALITY						
<p><u>AIR-1</u>: During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD:</p> <ul style="list-style-type: none"> ▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. ▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered. ▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. ▪ All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. ▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. ▪ A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations. <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event less than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>Implementation of Mitigation Measure AIR-1 would reduce potentially significant impacts of fugitive dust emissions during project construction to a less-than-significant level.</p>	Both applicants' contractors	City	Prior to start of construction and at time of contract specifications			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
CULTURAL RESOURCES						
<p><u>CULT-1</u>: Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.</p> <p>The applicant shall inform its contractor(s) of the sensitivity of the project area for archaeological deposits and shall verify that the following directive has been included in the appropriate contract documents:</p> <p>“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>	Both applicants’ contractors	City	At time of contract specifications and at time of deposit encounter, as applicable			
<u>CULT-2</u> : Mitigation Measure CULT-1 shall be implemented.	See CULT-1	See CULT-1	See CULT-1			
GEOLOGY AND SOILS						
<p><u>GEO-1</u>: The project applicants shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans.</p>	Both applicants	City	Prior to issuance of grading and building permits			

Exhibit 2b

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<u>GEO-2:</u> The project applicants shall implement Mitigation Measure GEO-1.	See GEO-1	See GEO-1	See GEO-1			
<p><u>GEO-3:</u> Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p> <p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p> <p>“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”</p>	Both applicants’ contractors	City	At time of encounter of paleontological resources, as needed			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
HAZARDS AND HAZARDOUS MATERIALS						
<p><u>HAZ-1:</u> Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the project site has been appropriately remediated and appropriate engineering controls have been incorporated into the project design, as necessary, to ensure that future occupants of the project site would not be exposed to unacceptable health risks from hazardous materials in the subsurface of the project site. The Covenant and Agreement to Restrict Use of Property (Covenant) and Operation and Maintenance (O&M) Plan for the project site shall be amended to account for post-remediation conditions of the project site and ensure the engineering controls are operated and maintained such that conditions at the project site remain protective of human health and the environment.</p> <p>Implementation of Mitigation Measure HAZ-1, compliance with the requirements of the Covenant and O&M Plan as required by DTSC, and compliance with existing regulations related to hazardous materials that would be handled during operation of the project would ensure that the proposed project would result in less-than-significant impacts related to accidental releases of hazardous materials during operation.</p>	Both applicants	City	Prior to approval of building permits			
HYDROLOGY AND WATER QUALITY						
<p><u>HYDRO-1:</u> Prior to the approval of building permits, the applicants shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits.</p>	Both applicants	City	Prior to approval of building permits			
<p><u>HYDRO-2:</u> The project applicants shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans.</p>	Both applicants	City	Prior to issuance of grading and building permits			

Exhibit 2b

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
LAND USE AND PLANNING						
<u>LAND-1</u> : No feasible mitigation measures are available, and therefore this impact would be significant and unavoidable on both a project and cumulative basis.	Not applicable	Not applicable	Not applicable			
NOISE						
<u>NOISE-1a</u> : After the Whistlestop/Eden Housing project is completed and housing residents, the BioMarin project applicant shall require that the construction contractor for BioMarin Building A and BioMarin Building B to implement a noise monitoring program during construction. The details of the construction noise monitoring program (described further below) shall be included in applicable contract specifications and be submitted to the City of San Rafael Building Division for approval before construction.	Both applicants	City	During construction			
<p>A noise monitoring program shall include collecting noise level measurements at the Whistlestop/Eden Housing project during all phases of construction of the BioMarin project. A qualified acoustical consultant shall collect the noise level measurements, and shall select the timing and location of the measurements to be as close to future residents of the Whistlestop/Eden Housing project as possible. Consistent with the San Rafael Municipal Code, noise levels shall be measured on an A-weighted scale with a sound level meter (Type 1 or 2). For constant noise sources, the meter shall be set for slow or fast response speed and L_{eq} shall be used. For intermittent sound, the meter shall be set for fast response speed and L_{max} shall be used.</p> <p>The monitoring results and the associated data interpretation that focuses on whether the construction activity is in compliance with applicable thresholds shall be reported to the City of San Rafael Building Division. If construction noise exceeds 90 dBA L_{max} at the Whistlestop/Eden Housing project, additional noise attenuation measures shall be implemented to reduce construction noise and to ensure the operation of all construction equipment (listed in DEIR Table 4.10-10) to be below 90 dBA L_{max} at the Whistlestop/Eden Housing project. The noise attenuation measures may include, but are not limited to, the erection of a Sound Transmission Class (STC) rated wall or a plywood wall around the construction site. The BioMarin project applicant shall implement the approved monitoring program during construction.</p>						

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p>NOISE-1b: The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications:</p> <ol style="list-style-type: none"> 1. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment. 2. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible. 3. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction. 4. Use "quiet" air compressors and other stationary noise sources where technology exists. 5. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools, which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible. 6. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity. 7. Prohibit all unnecessary idling of internal combustion engines. 	Both applicants and contractors	City	During construction			
<p>NOISE-1c: The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include:</p> <ol style="list-style-type: none"> 1. Designation of an on-site construction complaint and enforcement manager for the project. 2. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence. 3. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed. 	Both applicants' contractors	City	Prior to and during construction			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<p><u>NOISE-1d</u>: Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b.</p> <p>The above measures shall be included in contract specifications. In addition, an independent construction monitor shall conduct periodic site inspections, but in no event fewer than four total inspections, during the course of construction to ensure these mitigation measures are implemented and shall issue a letter report to the City of San Rafael Building Division documenting the inspection results. Reports indicating non-compliance with construction mitigation measures shall be cause to issue a stop work order until such time as compliance is achieved.</p> <p>The combination of the four mitigation measures above would reduce the impact to a less-than-significant level.</p>	Both applicants and contractors	City	At time of developing contract specifications and during construction			
<p><u>NOISE-2</u>: The project applicants shall use mechanical equipment selection and acoustical shielding to ensure that noise levels from the installation of mechanical equipment do not exceed the exterior noise standards of 60 dBA L_{max}/50 dBA L_{eq} during daytime or 50 dBA L_{max}/40 dBA L_{eq} during nighttime at the nearest residential land uses, and do not exceed the exterior noise standards of 65 dBA L_{max}/55 dBA L_{eq} during both daytime and nighttime at the nearest commercial land uses. Controls that would typically be incorporated to attain this outcome include locating equipment in less noise-sensitive areas, when feasible; selecting quiet equipment; and providing sound attenuators on fans, sound attenuator packages for cooling towers and emergency generators, acoustical screen walls, and equipment enclosures.</p>	Both applicants	City	Prior to issuance of occupancy permits			
<p><u>NOISE-3</u>: Mitigation Measures NOISE-1a through NOISE-1d shall be implemented.</p>	Both applicants	City	Prior to issuance of occupancy permits			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
TRANSPORTATION						
<u>TRANS-1:</u> BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. This mitigation measure shall continue in perpetuity for the project site until the 15 percent reduction is identified for three consecutive years. This mitigation measure would reduce the impact to less than significant.	BioMarin	City	Annually during operation			
<u>TRANS-2:</u> No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-3:</u> No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-4:</u> No feasible mitigation is available. This impact would be significant and unavoidable.	Not applicable	Not applicable	Not applicable			
<u>TRANS-5:</u> Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets.	Both applicants	City	Prior to and during construction			
<u>TRANS-6:</u> The project applicants shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a "pre-construction" study, followed by a "post-construction" survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval.	Both applicants	City Engineer	Prior to and after construction			
<u>TRANS-7a:</u> The project applicants shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground.	Both applicants	City	During operation			

Exhibit 2b

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/ Comments
<u>TRANS-7b</u> : The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project’s six driveways. The combination of these two mitigation measures would reduce the impact to less than significant.	Both applicants	City	During operation			
<u>TRANS-8</u> : The project applicants shall fund the design and construction of curb ramp improvements at all corners of the following intersections: 3 rd Street and Lindaro Street, 3 rd Street and Brooks Street, 2 nd Street and Brooks Street, and 2 nd Street and Lindaro Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-9</u> : The project applicants shall fund the design and construction of improvements related to the provision of a crosswalk across the western leg of the 3 rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer.	Both applicants	City Engineer and City	Prior to issuance of occupancy permits			
<u>TRANS-10</u> : The project applicants shall fund the design and construction of improvements related to the provision of a Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3 rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
<u>TRANS-11</u> : Vehicle travel on Brooks Street at 2 nd Street shall be limited to one-way northbound/ outbound <u>inbound</u> only. Brooks Street at 3 rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3 rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works.	Both applicants	City Department of Public Works	Prior to issuance of occupancy permits			
<u>TRANS-12</u> : The project applicants shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street.	Both applicants	City	Prior to issuance of occupancy permits			
<u>TRANS-13</u> : The sliding gates at the 3 rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers.	BioMarin only	City Fire and Police Departments	Prior to issuance of occupancy permits			

Exhibit 2c

RESOLUTION NO. 20-

**RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT (GPA18-001) TO THE SAN RAFAEL GENERAL PLAN 2020: A) AMENDING LAND USE ELEMENT EXHIBIT 6: FAR MAPS; AND B) LAND USE ELEMENT EXHIBIT 10: HEIGHT BONUSES, TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS ON A 133,099 SQ. FT. PARCEL AT 999 3rd St AND ADJACENT SAN RAFAEL CORPORATE CENTER.
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in November 2004, the City of San Rafael adopted the San Rafael General Plan 2020 and certified the supporting Final Environmental Impact Report for the plan; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA19-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Rezoning (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Development Agreement (DA19-001) development of two, 72-foot tall, four-story laboratory/research and development and office buildings totaling 207,000 sq. ft., for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3rd Street property to be incorporated into the existing San Rafael Corporate Center (SRCC) PD District. The total site area of the amended SRCC campus would be 795,021 sq. ft.; and

WHEREAS, the project application for BioMarin includes a request to modify the existing Floor Area Ratio (FAR) for the 118,099 square feet of the 999 3rd Street property from 1.50 to 0.90 and a request to modify the existing FAR for the SRCC from 0.75 to 0.90. The total FAR of 0.90 for the newly amended SRCC would allow the two proposed buildings, totaling 207,000 sq. ft., of the BioMarin project to be included in the total allowed campus development of 715,519 sq. ft.; and

WHEREAS, on February 28, 2019, in accord with California Government Code Section 65352.3(a), specifically the directive of Senate Bill 18 (SB18), the Department of Community Development Department staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose an amendment to the local General Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in Section 5097.9 and 5097.993 of the California Public Resources Code. The prescribed 90-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, following the initial filing of the BioMarin/Whistlestop/Eden Housing planning applications, the City commenced with environme review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included: a) the publication of a Notice of Preparation (NOP) in February 2019 for the purpose of scoping the topic areas of study for the preparation of an Environmental Impact Report; b) the preparation and publication of a Draft Environmental Impact Report (DEIR) in August 2019, which included a 45-day public review process and Planning Commission public hearing for commenting on the DEIR; and c) the

Exhibit 2c

preparation of a Final Environmental Impact Report (FEIR) by responding to all comments made and submitted on the DEIR; and

WHEREAS, the FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the FAR modification and Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in a significant impacts, in that it would not be in potential conflict with San Rafael General Plan 2020 Land Use Element Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (Planned Development), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development.

WHEREAS, the FEIR states that there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (Development Timing) and Circulation Element Policy C-5 (Traffic Level of Service), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project. According to Public Resources Code, Section 21082.2, subdivisions (a) and (e), the lead agency (City) is tasked with determining the significance of impacts and statements in an FEIR are not determinative of significance. As set forth in the CEQA findings for this project, recommended by the Planning Commission by separate resolution, the City has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue. The City, however, has determined that the project is consistent with all of the pertinent General Plan goals and policies, including Policies LU-2 and C-5. Specifically, Policy C-5 allows the City to approve projects that exceed the level of service (LOS) standards if it finds that the benefits of the project to the community outweigh the resulting traffic impacts. The project, therefore, meets the traffic standards set forth in the San Rafael General Plan 2020. Further, because the project meets the traffic standards set forth in Policy C-5, and other infrastructure such as water and sewer is in place, the project is consistent with Policies LU-2. As explained in the FEIR, per CEQA Guidelines Section 15063, in order to adopt the proposed amendment to the San Rafael General Plan 2020, the City must weigh the benefits of the project against the unavoidable, adverse environmental (traffic) effects of the project and adopt a statement of overriding consideration. Similar findings are required by San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to approve a project that exceeds the LOS standards if the City finds that the project's benefits to the community outweigh the project's traffic impacts; and

WHEREAS, in considering the General Plan Amendment application, the Planning Commission has reviewed and considered the proposed project benefits against the unavoidable, adverse environmental effects. By separate resolution, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), the Planning Commission has recommended to the City Council approval of the CEQA Findings of Fact, an exception to the Circulation Element Policy C-5 (Level of Service), and a Statement of Overriding Considerations, which support approval of the proposed project and the accompanying General Plan Amendment application (GPA18-001). This separate resolution also recommends the approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolutions, recommended to the City Council 1) adoption of the Planned Development (PD) Rezoning (ZC18-002), 2) adoption of Zoning Ordinance Text Amendment (ZO18-003), 3) approval of a Development Agreement (DA19-001), and 4) approval of Master Use Permit (UP18-034), Environmental

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and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council approval of General Plan Amendment application GPA18-001, amending the San Rafael General Plan 2020 as follows:

Modify **Exhibit 6** in the Land Use Element to create a new 0.90 FAR for the total revised San Rafael Corporate Center campus. The 999 3rd St site has a FAR maximum of 1.50, while the current SRCC PD District has a FAR maximum of 0.75. The newly created FAR would preserve development rights on the SRCC PD District and also allow for the total 207,000 sq. ft. of development of the proposed BioMarin project. The proposed modified General Plan Exhibit 6 is shown as **Attachment A** below.

Modify **Exhibit 10** in the Land Use Element to create a new Height Bonus for 999 3rd Street property to be combined with the existing San Rafael Corporate Center campus. BioMarin has provided public benefits, including a development area for the Whistlestop / Eden Housing project, which is considered a significant public and community benefit. The proposed modified General Plan Exhibit 10 is shown as **Attachment B** below.

This recommendation is based on and supported by the following findings:

1. The proposed amendments to Land Use Element Exhibit 6 and Exhibit 10 would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 in that:
 - a. Although the proposed amendment has the potential to be in conflict with San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), which are adopted for the purpose of avoiding or mitigating a physical, environmental effect associated with traffic, the Planning Commission has determined, through adoption of a separate resolution of CEQA Findings of Fact and Statement of Findings of Overriding Consideration, that the benefits of the General Plan amendment outweigh the unavoidable, adverse environmental effects of the action. These findings conclude that the amendments would be consistent with and implement Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts. The findings in this separate resolution are reaffirmed herein to support this action to amend the San Rafael General Plan 2020.
 - b. The action would be consistent with and implement San Rafael General Plan 2020 Neighborhood Element Program NH-40, which encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC.
 - c. As drafted, overall, the amendments would be consistent with: a) Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high quality mixed-use development in the downtown designated areas; b) Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business*

Exhibit 2c

Areas) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.

2. The public interest would be served by the adoption of the proposed amendments to Land Use Element Exhibit 6 and Exhibit 10, which would modify the permitted Floor Area Ratio and maximum Height Bonus for the 999 3rd Street property to be included in the newly modified San Rafael Corporate Center in that:
 - a. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.
 - b. The proposed blended 0.90 Floor Area Ratio will reduce the existing 999 3rd Street FAR but raise the existing SRCC FAR from 0.75 to 0.90. The net change will result in a total floor area that will be an increase in 30,678 sq ft for the newly modified total project area.
 - c. This action would be consistent with and implement San Rafael General Plan Neighborhoods Policy NH-40 (*Second Third Mixed Use District*). Program NH-40, which is specific to the Second/Third Mixed Use District in the downtown area, encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC. As anticipated, the proposed land use change to the General Plan has been initiated and proposed in conjunction with the expanded San Rafael Corporate Center PD District.
 - d. This action would provide desired public benefits and amenities as described in the modified Exhibit 10, including: Affordable housing (minimum 60 units), a privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
 - e. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.

Exhibit 2c

The foregoing resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 28th day of January 2020.

AYES:

NOES:

ABSENT:

ABSTAIN:

SAN RAFAEL PLANNING COMMISSION

ATTEST:

Paul A. Jensen, Secretary

Jeff Schoppert, Chair

Exhibit 2c

Attachment A General Plan 2020 Exhibit 6 – FAR

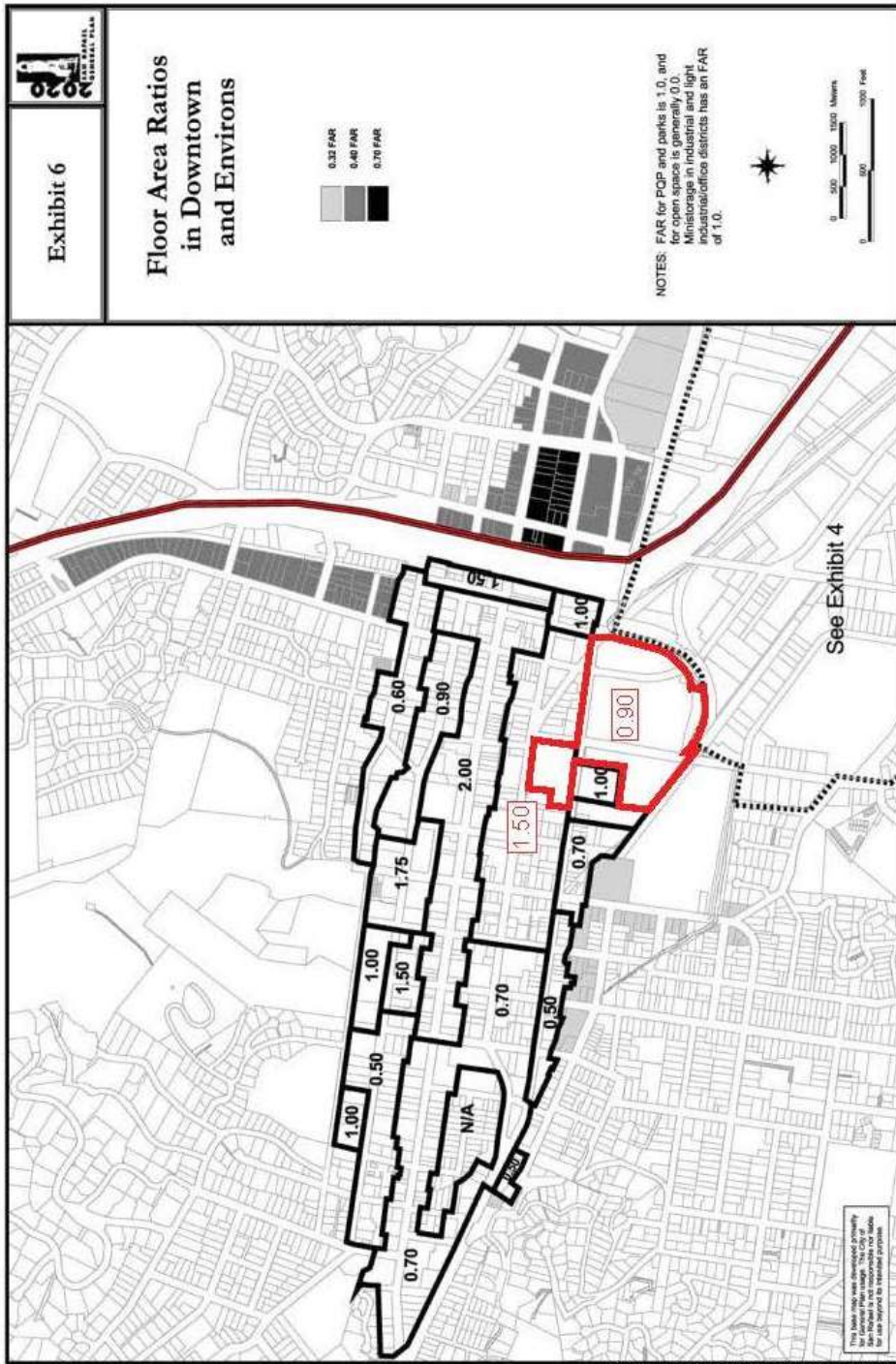


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Attachment B:

Note: New language illustrated with underline text

Genera Plan 2020 Exhibit 10 – Height Bonuses

Location	Maximum Height Bonus	Amenity (May provide one or more of the following)
Fourth Street Retail Core Zoning District	12 feet	Affordable housing Public courtyards, plazas and/or passageways (consistent with Downtown Design Guidelines) Public parking (not facing Fourth Street)
PG&E site in the Lindero Office land use district	24 feet	Park (privately maintained park with public access, adjacent to Mahon Creek; an alternative is tennis courts tied to Albert Park.) Community facility (10,000 sq. ft. or more in size)
Second/Third Mixed Use East Zoning District	12 feet	Affordable housing Public parking Overhead crosswalks Mid-block passageways between Fourth Street and parking on Third Street
<u>999 Third St</u>	<u>20 feet</u>	<u>Affordable housing (minimum 60 units)</u> <u>Privately owned public plaza (5,000 sq. ft. or more in size)</u> <u>Community facility (e.g. senior center, 10,000 sq. ft. or more in size)</u> <u>Pedestrian crossing safety improvements at adjacent intersections</u> <u>Donation of funds for development of bike lanes</u>
Second/Third Mixed Use West District, north of Third Street and east of C Street	18 feet	Public parking
West End Village	6 feet	Affordable housing Public parking Public passageways (consistent with Downtown Design Guidelines)
Lincoln Avenue between Hammondale and Mission Avenue	12 feet	Affordable Housing See NH-120 (Lincoln Avenue)
Marin Square	12 feet	Affordable housing
North San Rafael Town Center	24 feet	Affordable housing
Citywide where allowed by zoning.	12 feet	Hotel (1)

Exhibit 2d

RESOLUTION NO. 20-

**RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT (ZO18-003)
TO THE SAN RAFAEL MUNICIPAL CODE SECTION 14.16.190.A - HEIGHT BONUS TO
CREATE A NEW 20-FOOT HEIGHT BONUS FOR THE 999 3RD STREET PROPERTY**

WHEREAS, in 1992, the City of San Rafael adopted the San Rafael Municipal Code via Ordinance 1625; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18006) for the development of two 72-foot tall, four-story Research and Development buildings and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, the maximum height bonus for development in the Second/Third Mixed Use District is 12 feet based on the provision of the following public amenities;

- a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
- b. Public parking, providing it is consistent with the downtown design guidelines;
- c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
- d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe; and

WHEREAS, the project application for the total BioMarin development includes a request to increase the allowable maximum height bonus for the 118,099 sq. ft. portion of the 999 3rd Street property from 12 feet to 20 feet based on the provision of one or more of the following public amenities:

- a. Affordable housing (minimum 60 units)
- b. Privately owned public plaza (5,000 sq. ft. or more in size)
- c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
- d. Pedestrian crossing safety improvements at adjacent intersections
- e. Donation of funds for development of bike lanes; and

WHEREAS, the proposed request for additional height bonus requires an amendment to the General Plan (Exhibit 10 Height Bonus) and to the Zoning Ordinance (Section 14.16.190 Height Bonus) and applications have been filed requesting to amend these sections in conjunction with the review of the planning applications for the proposed project; and

WHEREAS, following the initial filing of the BioMarin/Whistlestop/Eden Housing planning applications, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included: a) the publication of a Notice of Preparation (NOP) in February 2019 for the purpose of scoping the topic areas of study for the preparation of an Environmental Impact Report; b) the preparation and publication of a Draft Environmental Impact Report (DEIR) in September August 2019, which included a 45-day public review process and Planning Commission public hearing for commenting

Exhibit 2d

on the DEIR; and c) the preparation of a Final Environmental Impact Report (FEIR) by responding to all comments made and submitted on the DEIR; and

WHEREAS, the FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the maximum Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in a significant impacts, resulting from the change in height bonus provisions and would not be in potential conflict with San Rafael General Plan 2020 Land Use Element Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (*Planned Development*), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development.

WHEREAS, the FEIR states that there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project, however, these are not related to the additional height of the buildings, but from the intensity of the use

WHEREAS, in considering the Municipal Code Amendment application, the Planning Commission has reviewed and considered the proposed project benefits against the unavoidable, adverse environmental effects from the impacts to the circulation network. By separate resolution, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), the Planning Commission has recommended to the City Council 1) certification of the FEIR approval, 2) approval of the CEQA Findings of Fact, an exception to the Circulation Element Policy C-5 (*Level of Service*), and a Statement of Overriding Considerations, and 3) approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the proposed Municipal Code Amendment application, along with the accompanying applications and FEIR, , accepting all public testimony and the written report of the Department of Community Development; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council adoption of the amendments (ZO18-003) to the San Rafael Municipal Code Title 14 (Zoning), as outlined in Exhibit A, based on the findings as required under Zoning Code Section 14.27.060

1. The proposed amendment would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 in that:
 - a. Although the proposed amendment conflicts with San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), which are adopted for the purpose of avoiding or mitigating a physical, environmental effect associated with traffic, the Planning Commission has determined, through adoption of a separate resolution of CEQA Findings of Fact and Statement of Findings of Overriding Consideration, that the benefits of the General Plan

Exhibit 2d

amendment outweigh the unavoidable, adverse environmental effects of the action. These findings conclude that the amendments would be consistent with and implement Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts. The findings in this separate resolution are reaffirmed herein to support this action to amend the San Rafael General Plan 2020.

- b. The action would be consistent with and implement San Rafael General Plan 2020 Neighborhood Element Program NH-40, which encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the San Rafael Corporate Center.
- c. As drafted, overall, the amendments would be consistent with: a) Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high quality mixed-use development in the downtown designated areas; b) Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.
- d. The public health, safety and general welfare are served by the adoption of the proposed amendments to San Rafael Municipal Code, which would modify the permitted maximum Height Bonus for the portion of the 999 3rd Street property to be included in the newly modified San Rafael Corporate Center PD District (PD-1936) in that:
- e. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.
- f. This action would be consistent with and implement San Rafael General Plan Neighborhoods Policy NH-40 (*Second Third Mixed Use District*). Program NH-40, which is specific to the Second/Third Mixed Use District in the downtown area, encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC. As anticipated, the proposed land use change to the General Plan has been initiated and proposed in conjunction with the expanded San Rafael Corporate Center PD District.
- g. This action would provide desired public benefits and amenities, including: Affordable housing (minimum 60 units), a privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
- h. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development

Exhibit 2d

standards and land uses included in the existing San Rafael Corporate Center. The development of proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

Exhibit 2d

**Attachment A
Amendment to San Rafael Municipal Code (SRMC) Title 14 – Zoning**

The following section of the San Rafael Municipal Code (SRMC) Title 14 – Zoning is hereby amended to provide a new maximum height bonus of 20 feet for the 999 3rd Street property, including public amenities, as shown with the new (underlined) and modified (~~strike thru~~), as follows

Section 14.16.190.A – Height Bonus

A. Downtown Height Bonuses. A height bonus may be granted by a use permit approved by the planning commission in the following downtown zoning districts. No more than one height bonus may be granted for a project.

1. In the Fourth Street retail core, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public courtyards, plazas and/or passageways, with the recommendation of the design review board that the public improvements are consistent with downtown design guidelines;

Public parking, providing it is not facing Fourth Street and it is consistent with the downtown design guidelines.

2. In the Lindaro district, on lots south of Second Street and fronting Lindaro Street, a twenty-four-foot (24') height bonus for any of the following:
 - a. Park area adjacent to Mahon Creek, accessible to the public and maintained by the property owner;
 - b. Community facility, ten thousand (10,000) square feet or more in size. The facility must be available to the public for cultural and community events, and maintained and operated by the property owner.
3. In the Second/Third mixed use east district, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
 - d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.

4. On the 999 3rd Street Property, a twenty-foot (20') height bonus for any of the following:
 - a. Affordable housing (minimum 60 units)
 - b. Privately owned public plaza (5,000 sq. ft. or more in size)
 - c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
 - d. Pedestrian crossing safety improvements at adjacent intersections
 - e. Donation of funds for development of bike lanes;

- ~~4.5.~~ In the West End Village, a six-foot (6') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Public passageways, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe.

Exhibit 2d

- ~~5.6.~~ In the Second/Third mixed use west district, on lots located on the north side of Third Street and east of C Street, an eighteen-foot (18') height bonus for the following:
- a. Public parking, providing it is consistent with the downtown design guidelines.

****No changes to Sections B, C, TO SRMC 14.16.190****

RESOLUTION NO. 20-

**RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A PLANNED DEVELOPMENT
(PD) REZONING (ZC18-002) TO THE SAN RAFAEL CORPORATE CENTER PLANNED
DEVELOPMENT (PD-1936) DISTRICT TO: 1) ALLOW EXPANSION OF THE CURRENT
SRCC PD DISTRICT BY INCORPORATING THE 118,099 SQ. FT. OF THE 999 3RD ST
PROPERTY INTO THE BOUNDARIES; AND 2) UPDATE PD REGULATIONS TO
INCORPORATE REVISED PARKING STANDARDS AND DEVELOPMENT REGULATIONS
TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH
AND DEVELOPMENT BUILDINGS
(APN 011-265-01 AND 013-021-34, 35, 50, 51, 52, 53, 54 & 55,)**

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael. The PD-1721 District established zoning and standards for development of the subject property with five buildings (totaling 406,000 square feet), two parking structures, surface parking, campus landscaping and publicly-accessible park area along Mahon Creek; and

WHEREAS, in August 2000, the San Rafael City Council adopted an amendment to the Planned Development (PD-1721) District to approve changes in the zoning district development standards in order to accommodate multi-tenant use of the San Rafael Corporate Center (SRCC) office park. The amended Planned Development District was rezoned to PD-1754; and

WHEREAS, in October 2011, the San Rafael City Council adopted an amendment to the Planned Development (PD-1754) District to expand the allowed land uses for the San Rafael Corporate Center to include medical use and research and development and allowed the adopted parking standard of 3.3 parking spaces per 1,000 in the Master Plan (instead of 4.4 parking spaces per 1,000 sf for medical office). The amended Planned Development District was rezoned to PD-1901; and

WHEREAS, in October 2015, the San Rafael City Council adopted an amendment to the Planned Development (PD-1901) District approving the 72,396 square foot, 54-foot tall, four-story office building 755 Lindero Street on the western parcel surface parking lot (Parcel 1) and a six story expansion of the previously approved and built parking structure at 788 Lincoln Ave (Parcel 8) of the SRCC. The build-out of the approved campus, totals 478,396 sq. ft. allowed by the PD 1936. The amended Planned Development District (PD-1936) is currently in effect at this time; and

WHEREAS, between 2000 and today, the SRCC has been developed in various phases. The last office building (5th of 6 entitled) and the second parking garage approved were constructed in 2015-2016 under the terms of the Planned Development (PD-1901) District. The build-out of the approved campus, totals 400,700 sq. ft., 5,300 sq. ft. less than the 406,000 sq. ft. allowed by the PD 1901.

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) for the development of two 72-foot tall, four-story Research and Development

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buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street.; and

WHEREAS, the total development for BioMarin includes a request to incorporate 118,099 square feet of the 999 3rd Street property into the existing SRCC PD District. The total site area of the proposed campus would be 795,021 sq. ft.; and

WHEREAS, the request to incorporate the portion of 999 3rd St into the SRCC campus and development of the two new buildings at 999 3rd St, creation of a blended FAR amongst all SRCC properties and shared parking arrangement requires an Amendment to the PD District; and

WHEREAS, on March 12, 2019, the Planning Commission (Commission) held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural resources, Geology and Soils, Greenhouse Gas Emissions, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Recreation, Transportation, Tribal Cultural Services, Utilities, and Project Alternatives; and

WHEREAS, the DEIR was completed and a Notice of Completion (NOC) was filed and the DEIR was made available and circulated for a 45-day public comment period, beginning on August 9, 2019 and closing on September 23, 2019; and

WHEREAS, on September 24, 2019, the Planning Commission held a duly noticed public hearing to accept comments on the DEIR and directed staff to prepare a Final Environmental Impact Report (FEIR); and

WHEREAS, the Final EIR was prepared and released for public review on January 10, 2020; and

WHEREAS, in considering the GP Amendment, Zoning Text Amendment, PD Rezoning, Master Use Permit, Environmental and Design Review Permit, Small Subdivision, and Sign Program Amendment applications, the Planning Commission has reviewed and considered the FEIR and all applicable mitigation measures therein. The FEIR concludes that the Project will result in significant and unavoidable adverse environmental land use and transportation impacts. No feasible mitigation measures can be implemented by the City to reduce transportation impacts identified in the FEIR as significant and unavoidable. The FEIR also identifies Alternative 2: “Reduced Scale Alternative” as the Environmentally Superior Alternative and concludes that it would eliminate some significant and unavoidable impacts to the circulation network but would not achieve the Applicant’s primary objectives. The Planning Commission has weighed the Project benefits against the unavoidable, adverse environmental effects and confirmed that the Proposed Project is the appropriate project design. By separate resolution, consistent with CEQA Guidelines Section 15063, recommends adoption of a Statement of Overriding Considerations, which supports approval of the Project and the accompanying planning applications. This separate Resolution also recommends the approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into Project action; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly-noticed public hearing on the Project, including a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006), accepting all oral and

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written public testimony and the written report of the Community Development Department Planning staff and closed said hearing on that date; and

WHEREAS, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and recommended to the City Council, by separate Resolution, certification of the Final EIR in that it complies with all requirements of CEQA; and

WHEREAS, on January 28, 2020, the Planning Commission also recommended to the City Council, by separate Resolution, adoption of Statement of Overriding Considerations and Approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission also recommended to the City Council, by separate Resolutions, approval of the Development Agreement (DA19-001), Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council the adoption of an amendment to the San Rafael Corporate Center Planned Development (PD-1936) District based on the following findings and subject to the amended Master Plan Land Use and Development Standards presented in attached Exhibit A:

1. As proposed and conditioned, approval of this PD Amendment to expand the allowable uses to include an additional 207,000 square feet of laboratory and general office uses in two 72-foot tall, four-story buildings, on 118,099 square feet of 999 3rd Street, would be consistent with the applicable goals and policies of the San Rafael General Plan 2020 and in conformance with the provisions of the PD-1936 District, as amended. Specifically:
 - a. As proposed, the laboratory and office land uses are consistent with Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (i), LU-9 (*Intensity of Nonresidential Development*), LU-12 (*Building Heights*), LU-14 (*Land Use Compatibility*) in that these uses would be: allowable under the adopted Lindero Office land use designation; compatible with the current land uses allowed under the PD-1936 District adopted for this site; and compatible with existing land uses found in the surrounding area. In addition, a height bonus is proposed an accompanying General Plan amendment to include the height bonus is being processed.
 - b. Although the proposed project be not be consistent and conflict with Circulation Element Policies C-5 (*Traffic Level of Service Standards*), a separate Resolution has been adopted, including the granting of a finding for a waiver to the LOS standards for this project consistent with C-5e, given that the benefits of the project outweigh the impacts.
 - c. The project would be consistent with C-7 (*Circulation Improvements Funding*) and C-12 (*Transportation Demand Management*) in that the office use component would be subject to the adopted citywide traffic mitigation fees which would be used to fund long-term transportation improvements; and the project would not change the current City requirement and obligation of the office park owner to implement transportation demand measures such as encouraging tenants, through incentives to carpool and use public transit.
 - d. As proposed, the laboratory and office land uses would be consistent with Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero*

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- Office District*) and NH-8 (*Parking*) in that it would: facilitate additional employment and future economic success in the Downtown area; promote build-out of the San Rafael Corporate Center project by allowing a land use that is appropriate and marketable; allow compatible land uses that would fill current and long-term projected vacancies in general and administrative office space; and promote a reasonable reduction in required parking supported by the project's proximity to Downtown, the Bettini Transit Center and the planned SMART rail stations.
- e. As proposed, the laboratory and office land uses would be consistent with the Community Design Element Policy CD-21(*Parking lot landscaping*) in that: the uses proposed will have an approved landscaping plan that will provide shade cover and adequate screening of vehicles within parking lot areas.
 - f. As proposed, the laboratory and office land uses would be consistent with newly-adopted Sustainability Element Policies SU-1 (*Land Use*) and SU-2 (*Promote Alternative Transportation*), and the adopted Climate Change Action Plan in that: the uses are proposed within an existing and approved development office park that is close to public transit and Downtown; the project proposes a reduction in the amount of required parking for the medical use component, thus reducing thermal gain and shared parking; and the additional mix in land uses would facilitate the implementation transportation demand measures such as encouraging tenants, through incentives to carpool and use public transit.
 - g. The approval of additional laboratory and office land uses would be consistent with Our Vision of Downtown San Rafael in that it would further promote new businesses and employment in the Downtown area.
 - h. The approval of laboratory and office land uses would be consistent with the PD-1936 District, as amended by adoption of Zoning Amendment ZC18-002, which would permit these land uses.
2. The proposed additional laboratory and office uses would not be detrimental to the health, safety or general welfare of the residents or community in that:
 - a. These uses would be compatible with the currently approved and operating administrative, laboratory, and general office uses. These uses would be compatible with surrounding and immediate land uses and development.
 - b. These uses would be consistent and not in conflict with the deed restriction recorded for the San Rafael Corporate Center, which permits commercial and office land uses but prohibits use and development with residential and day care land uses. No residential uses would be included on the 118,099 sq. ft. land area addition to the San Rafael Corporate Center.
 - c. The addition of these land uses would realize the development of a vacant downtown parcel that is contemplated for laboratory and general office uses. The Corporate Center is adequately served by local facilities and utilities and the proposed land uses would be an extension of the ongoing operations.
 3. The proposed addition of laboratory and general office land uses will result in a reduction in parking ratio requirements currently adopted in the San Rafael Corporate Center Master Plan (3.3 spaces/1,000 square feet). The initial approval of the San Rafael Corporate Center found that this development has been designed to adequately address the automobile, bicycle and pedestrian traffic systems. Consistent with SRMC Section 14.18.040B, the project has been studied for parking needs for laboratory, office, and amenities uses at this location finding that the use of the proposed parking standard for the office park is reasonable, appropriate and adequate in that:

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- a. The proposed parking standard of 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for office, 1.5 parking spaces per 1,000 square feet of GSF for laboratory/research and development, and 1.0 spaces per 1,000 GSF of amenities is equitable and logical based on the parking study demand and usage on the existing BioMarin campus and studies and usage for other biotech campuses around the Bay Area as documented in the parking demand study for the proposed project.
 - b. The approvals and agreements established for the San Rafael Corporate Center will require a parking contingency plan should the office park be used for multi-tenants or converted from laboratory land uses. The project owner will be required to demonstrate available parking upon sale of the property or conversion from BioMarin (a single tenant) to multi-tenant uses.
 - c. The San Rafael Corporate Center is in immediate proximity to the Bettini Transit Center (major transit hub for Marin County) and the planned SMART rail station. The immediate access to mass transit reduces parking demand, which appropriately supports lower parking standards.
4. The proposed uses are found to be appropriate in area, location and overall planning for the purpose intended, and the design and development standards creates a non-residential environment of sustained desirability and stability given that the project is located on a centralized, downtown, vacant, infill-parcel contemplated for development in the General Plan along a major arterial road. The type of uses are consistent with the surrounding development and the existing BioMarin campus at the San Rafael Corporate Center. The proposed project uses high quality design materials and has been reviewed by the Design Review Board for recommendation of approval. The proposed project will allow for growth of a major employer in the downtown area.
5. The applicant demonstrates that public facilities are provided to serve the anticipated population as documented in the Final EIR for the proposed project and based on review by City departments for Code consistency regarding sewer, water, and other utilities. The proposed project is located in the downtown area of San Rafael where existing infrastructure is already in place to serve the project site.
6. The development is improved by deviations from typical zoning ordinance property development and parking standards given that it functions as a campus for a large biotechnology company and promotes high quality design, including clustering, landscaping, parking sharing across the campus and allows for flexibility of height and FAR standards.
7. The auto, bicycle, and pedestrian traffic system is adequately designed for circulation needs and public safety and emergency vehicle access is provided to serve the proposed development based on review by City departments including Police and Fire and has been recommended for approval. The proposed access points have been reviewed by City departments for Code consistency. Improvements to the bike and pedestrian networks in the surrounding area are included as part of the project. Although the project deviates from Level of Service standards as documented by the Final EIR for the proposal, the project has been recommended for approval by separate resolution.

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The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

- Attachment A: Development Standards
- Attachment B: PD Map
- Attachment C: Property Description (Meets & Bounds)

Exhibit 2e

Attachment A

San Rafael Corporate Center Master Plan

(Formerly Ordinance 1721, 1754, 1901, and 1936 Fair, Isaac Office Park Master Plan)
(ZC18-002)

INTENT

The San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus) Master Plan is based on the plans (Development Plan) approved for the Environmental and Design Review Permit (ED97-24, ED14-097 and ED18-087), Master Use Permit (UP14-052 and UP18-034) and Tentative Maps (TS97-1 and S18-001), approved by the City Council on February 17, 1998, August 7, 2000, December 5, 2011, October 19, 2015, and ENTER COUNCIL DATE.

LAND USES

This office park permits a maximum of 715,500 sq. ft. of building area within 8 buildings approved for the following uses: administrative office, general office, research/development uses, and accessory uses and parking.

1. Administrative and General Office Use. Administrative and general office uses as defined by San Rafael Municipal Code Title 19 (Zoning).
2. Research and Development Use. Research and development use is defined as a use engaged in scientific, medical or technological research with limited product testing and production. This use excludes full production of industrial type manufacturing and generally operates similar to and characteristic of low-intensity, general office use. Medical laboratories established for research (as opposed to labs providing testing services for patients/visitors) would be defined as a research and development use.
3. Uses determined to be incidental or accessory to the above-listed land uses shall be permitted, as determined to be appropriate by the Community Development Director.

In addition to the above buildings, the office park permits accessory parking structures to support the proposed development. Requirements and conditions for all uses in the office park shall be consistent with Master Use Permit UP14-052 and UP19-034. Residential and day care land uses are prohibited by recorded deed restriction.

DEVELOPMENT STANDARDS

The following standards shall apply to all development of the San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus):

1. Maximum floor area ratio:	0.90 blended maximum floor area ratio, per Development Plan approved under the office park Master Use Permit (UP18-034) and Environmental and Design Review Permit (ED18-087).
2. Building Height:	<u>Proposed buildings</u> - Maximum 54 feet, plus an 20-foot building height bonus for the two new buildings at 999 3 rd St, based on provision of public benefit as addressed below..

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	<p><u>Existing Buildings</u> - Maximum 54 feet plus a 24 foot height bonus previously granted by City for existing buildings within the campus (750 Lindaro St, 770 Lindaro St, 790 Lindaro St and 791 Lincoln Ave on the Central Parcel). Master Use Permit (UP14-052) (applicable to the Original SRC Property in the Lindaro Office land use district) and Environmental and Design Review Permit (ED14-097), as shown in General Plan Exhibit 10. The building height bonuses requires public benefit provisions as addressed below.</p>
<p>3. Landscaping:</p>	<p>Landscaping shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permits (ED14-097 and ED18-087).</p>
<p>4. On-site Parking:</p>	<ul style="list-style-type: none"> • 3.0 parking spaces per 1,000 gross square feet of office area, • 1.5 spaces per 1,000 gross square feet of research/development area, and • 1.0 spaces per 1,000 gross square feet of amenity area. <p>Compliance with and monitoring of on-site parking shall be enforced through the conditions of the approval required by the office park Master Use Permit (UP14-097 and UP18-034).</p> <p><u>Parking Contingency:</u> BioMarin will incorporate the following provisions into an enforceable deed restriction for the entire project site, Western parcels, Central parcels, Eastern Parcel and northern Parcel (except the portion transferred to Whistlestop/Eden Housing):</p> <ol style="list-style-type: none"> a. Changes in tenancy or use (type of use of change to multiple tenants, rather than single tenant), expansion of use(s), or expansion of floor area that create a parking demand that is more than five (5) percent greater than the number of required parking spaces approved under the current Planned Development (PD) District shall provide additional automobile parking, bicycle parking, and loading space as required by this Planned Development (PD) District and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand. b. Existing parking shall be maintained, but may be replaced in a reconstructed parking facility. c. A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with Planned Development (PD) District).
<p>5. Building Coverage</p>	<p>Building coverage shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permit (ED14-097 and ED18-087).</p>

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<p>6. Public Benefits:</p>	<p>The existing SRCC development received height bonus for four (4) of the buildings noted above in exchange for certain public benefits, including provision of a privately maintained park with public access adjacent to Mahon Creek and conference/meeting room available to the public. (UP14-052)</p> <p>In addition for the new development of the three buildings (755 Lindaro, and two buildings at 999 3rd St), subdivision and transfer of 15,000 sq ft of land to Whistlestop at the 999 3rd St site, a 6,000 sq ft “front porch” plaza open to the public and 3,000 sq ft retail space are to be provided in the 999 3rd St building as required by the Development agreement set forth in the office park Use Permit (UP18-034).</p> <p>Other public benefits required for the Development Agreement, 18 ft height bonus for the two buildings at 999 3rd St, Statement of Overriding Considerations to CEQA Impacts are required as described in DA19-001</p>
<p>7. Development Phasing</p>	<p>The three unbuilt buildings and expansion of the Lincoln Ave garage are to be phased within the 10-year term of the Development Agreement (DA). See DA19-001 and UP18-034.</p>
<p>8. Park Facility</p>	<p>The office park development shall provide a privately maintained park with public access adjacent to Mahon Creek as set forth in the office park Use Permit (UP14-052 and UP18-034)</p>
<p>9. Minor Additions/ Accessory Structures</p>	<p>Minor accessory structures or minor additions to the building that are determined to be accessory to the primary use and minimal in impact as determined by the Community Development Director, may be considered through review and approval of a Environmental and Design Review Permit, without an amendment to the PD District.</p>

DESIGN STANDARDS

All buildings, structures, site improvements, landscaping, parking and exterior lighting shall be consistent with the Development Plan and conditions of approval for the office park Environmental and Design Review Permit.

- ED14-097 shall govern the new building design at 755 Lindaro St and the expansion to the Lincoln Ave parking garage; and
- ED18-087 shall govern the design of the two new buildings at 999 3rd St.

TERM

This PD District and project approvals include a Development Agreement, as authorized by the California Government Code Section 65864 et seq., therefore this PD shall be approved for the term as defined by the Development Agreement, as long as there is compliance with all requirements and obligations of the Development Agreement.

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Attachment B PD Boundary Map

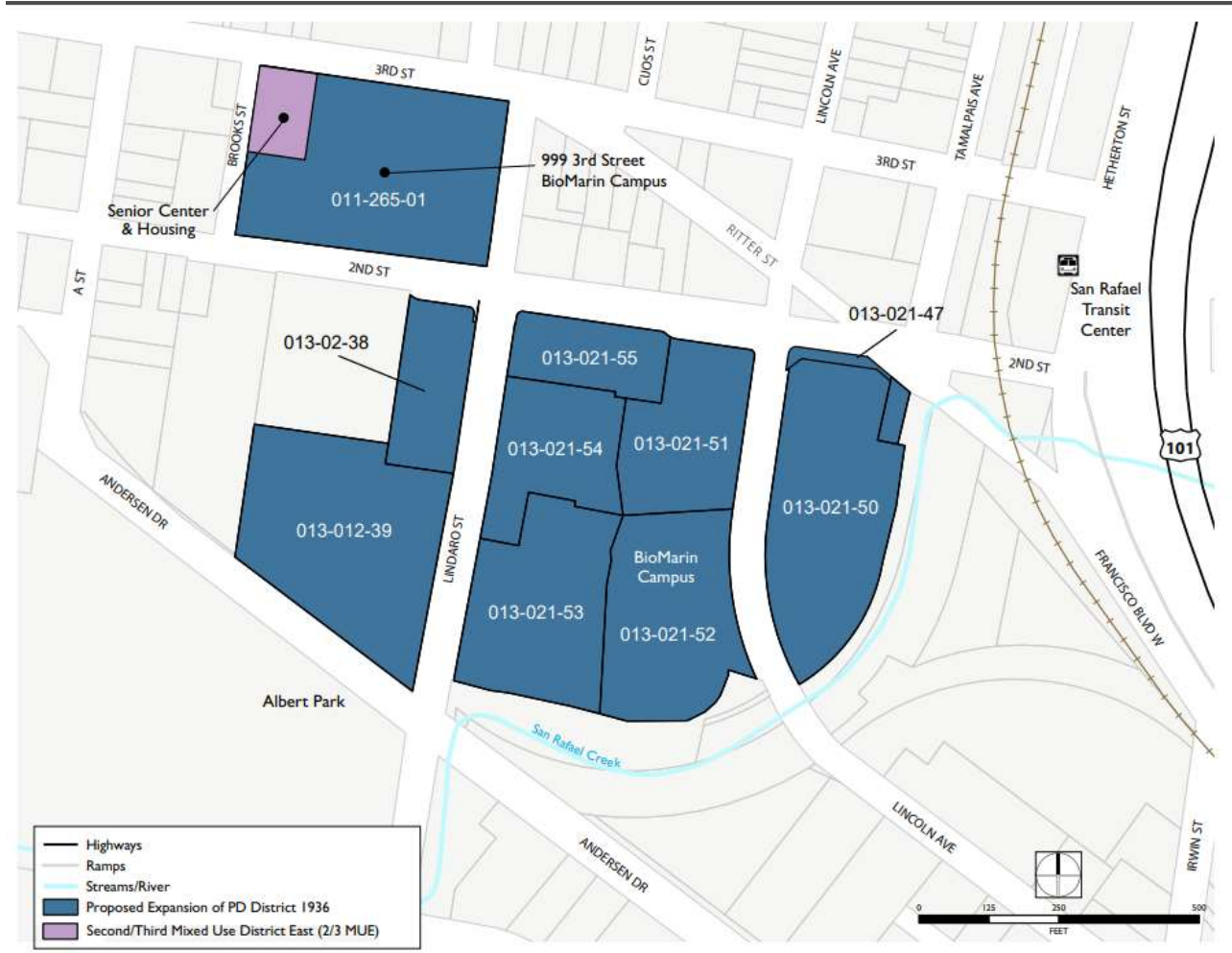


Exhibit 2e

Attachment C

Legal Description

**"Western Parcel" (APN 013-012-38 AND 39)
Reference PARCEL TWO**

A portion of that certain parcel of land described in the deed from F. M. Neely and Sara Neely, his wife, to PG&E recorded December 12, 1922 in Volume 11 of Official Records at page 209, Marin County Records and being more particularly described as follows:

Beginning at the intersection of the southerly boundary line of the city street known as Second Street, with the westerly boundary line of the city street known as Lindaro Street and running thence along said westerly boundary:

- (1) south 06°45'00" west 299.22 feet; thence
 - (2) south 08°53 '00" west 405.54 feet
- to a point in the northerly boundary line of the Northwestern Pacific Railroad Right of Way; thence along said northerly boundary line
- (3) north 54°38'00" west 396.88 feet; thence leaving said northerly boundary line
 - (4) north 06°38'05" east 238.95 feet; thence
 - (5) south 83°33'00" east 241.53 feet to a point herein for convenience called Point "A"; thence
 - (6) north 06°38'05" east 273.54 feet to a point in the southerly boundary line of said Second Street, thence running along said southerly boundary line.
 - (7) south 83°33'00" east 123.00 feet, more or less, to the point of beginning.

The bearings used are based on the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records.

Reserving therefrom the following easements over and across those certain portions of the Parcel Two:

1. The "Exclusive Gas Meter Easement";
2. The "Nonexclusive Gas Meter Easement";
3. The "West Parcel Slurry Wall Easement";
4. The "Area SA Extraction Trench Easement";
5. The "Area SB Extraction Trench Easement"; and
6. The "West Parcel Electric Facilities Easement";

which are more particularly described as follows:

Exclusive Gas Meter Easement

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Beginning at a point in the easterly boundary line of the parcel of land hereinbefore described and designated PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of said PARCEL TWO bears south 08°53'00" west 329.67 feet; thence leaving said easterly boundary line:

- (1) north 81°07'00" west 30.00 feet; thence
- (2) north 08°53'00" east 30.00 feet; thence
- (3) south 81°07'00" east 30.00 feet to a point in said easterly boundary; thence along said easterly boundary line
- (4) south 08°53'00" west 30.00 feet to the point of beginning.

Nonexclusive Gas Meter Easement

Beginning at the southwest corner of the parcel of land hereinbefore described and designated Exclusive Gas Meter Easement and running thence

- (1) north 81°07'00" west 20.00 feet; thence
 - (2) north 08°53 '00" east 50.00 feet; thence
 - (3) south 81 °07'00" east 50.00 feet; more or less,
- to a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street; thence along said easterly boundary line.

- (4) south 08°53 '00" west 20.00 feet
- to the northeast corner of said Exclusive Gas Meter Easement; thence along the northerly boundary line of said Exclusive Gas Meter Easement

- (5) north 81°07'00" west 30.00 feet
- to the northwest corner of said Exclusive Gas Meter Easement; thence along the westerly boundary line of said Exclusive Gas Meter Easement
- (6) south 08°53 '00" west 30.00 feet to the point of beginning.

West Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the general northerly boundary line of said PARCEL TWO, southerly to the southwesterly boundary line of said PARCEL TWO and lying 10 feet on each side of the line described as follows:

Beginning at a point in the general northerly boundary line of said PARCEL TWO, from which said Point "A" bears south 83°33'00" east 216.93 feet; thence leaving said general northerly boundary line

- (1) south 06°29'15" west 206.97 feet; thence
- (2) on a tangent curve to the left with a radius of 100.00 feet and tangent at the northerly terminus thereof to the preceding course, an arc distance of 5-8.23 feet, more or less, to a point in the southwesterly boundary line of said PARCEL TWO.

Area SA Extraction Trench Easement

Beginning at said Point "A" and running thence along the general westerly boundary line of said PARCEL TWO

- (1) north 06°38'05" east 273.54 feet

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to a point in the northerly boundary line of said PARCEL TWO, being also the southerly boundary line of said Second Street, thence along said northerly boundary line
(2) south 83°33'00" east 19.63 feet; thence leaving said northerly boundary line
(3) south 05°41 '35" west 457.82 feet; thence
(4) north 84°18'25" west 27.16 feet; more or less,
to a point in the southerly prolongation of the general westerly boundary line of said PARCEL TWO; thence
(7) north 06°38'05" east 184.60 feet, more or less, to the point of beginning. Area

5B Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending westerly from the easterly boundary of said PARCEL TWO, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of PARCEL TWO bears south 08°53 '00" west 157.56 feet; thence leaving said easterly boundary line

(1) north 80°40'14" west 135.97 feet to a point within the boundary lines of PARCEL TWO.

West Parcel Electric Facilities Easement and the Substation Access Easement

That portion of said PARCEL TWO lying westerly and southwesterly of a line described as follows:

Beginning at said Point "A" and running thence along the southerly prolongation of the general westerly boundary line of said PARCEL TWO

(1) south 06°38'05" west 269.32 feet; thence

(2) south 54°38'001 east 125.95 feet, more or less,

to a point in the easterly boundary line of said PARCEL TWO.

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**"CENTRAL PARCEL"
(APN 013-021-51, 52, 53, 54 AND 55)**

Reference: PARCEL ONE

The 8.280 acre parcel of land as shown upon the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records. Reserving therefrom the following easements over and across those certain portions of the Parcel One:

- A. The "Central Parcel Slurry Wall Easement";
- B. The "Central Parcel Extraction Trench Easement"; and
- C. The "Central Parcel Electric Facilities Easement";

which are more particularly described as follows:

Central Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the westerly boundary line of the parcel of land hereinbefore described and designated PARCEL ONE easterly and northerly to the northerly boundary line of said PARCEL ONE and lying 10 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which a rebar and cap stamped "LS 4545", herein for convenience called Point "B", accepted as marking the northeasterly terminus of a course in the westerly boundary line of the 8.280 acre parcel of land as shown upon said Record of Survey filed for record May 10, 1985, which course as shown upon said map has a bearing of S8°53' and a length of 421.24 feet, bears north 08°53 '00" east 364.35 feet; thence leaving said westerly boundary line•

- (1) south 76°44'52" east 70.89 feet; thence
- (2) south 84°17'14" east 32.74 feet; thence
- (3) south 79°31'32" east 111.67 feet; thence
- (4) south 76°52'26" east 104.19 feet; thence
- (5) north 87°55'06" east 104.33 feet; thence
- (6) north 62°01'36" east 31.14 feet; thence
- (7) north 46°27'46" east 23.10 feet; thence
- (8) north 33°08'08" east 12.71 feet; thence
- (9) north 19°37'58" east 36.67 feet; thence
- (10) north 00°14'58" east 46.69 feet; thence
- (11) north 10°10'31" west 41.35 feet; thence
- (12) north 06°57'47" west 97.03 feet; thence
- (13) north 04°56'07" west 42.24 feet; thence
- (14) north 03°58'51" east 124.15 feet; thence
- (15) north 09°00'19" east 35.36 feet; thence
- (16) north 08°34'17" east 106.14 feet; thence
- (17) north 07°26'47" east 107.63 feet, more or less,

Exhibit 2e

to a point in the northerly boundary line of said PARCEL ONE.

Central Parcel Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending easterly from the westerly boundary line of said PARCEL ONE, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which Point "B" bears north 08°53 '00" east 249.70 feet; thence leaving said westerly boundary line.

(1)-south 80°42'05" east 14.39 feet; thence

(2) south 79°43'14" east 64.83 feet

to a point within the boundary lines of PARCEL ONE.

Central Parcel Electric Facilities Easement

That portion of said PARCEL ONE, lying easterly and southerly of the general easterly boundary line of the strip of land hereinbefore described and designated Central Parcel Slurry Wall Easement.

Exhibit 2e

**"EASTERN
PARCEL" (APN 013-
021-50)**

All that certain real property situated in the City of San Rafael, County of Marin, State of California, described as follows:

PARCEL ONE:

BEGINNING at a point in the Southerly line of Second Street distant 496.5 feet Easterly from the point of intersection of the said Southerly line of Second Street with the Easterly line of Lindaro Street; thence running Easterly along said line of Second Street

140.1 feet to the Southerly line of the San Rafael and San Quentin Turnpike or Toll Road, now known as Francisco Boulevard; thence Southerly and Easterly along said line of said Turnpike 90 feet; thence leaving said Turnpike and running South 14°59' West 153.5 feet; thence North 38°41' West 278.3 feet to the point of beginning.

EXCEPTING THEREFROM all that portion there of lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL TWO:

BEGINNING at the point of intersection of the Southerly line of Second Street, with the Easterly line of Petaluma Avenue (now known as Lincoln Avenue); thence Easterly along the Southerly line of Second Street 6/10 of a foot to the most Westerly corner of that certain lot or parcel of land which was conveyed by John W. Mackay and James L. Flood to the City of San Rafael, by Deed dated June 5, 1893 and recorded in Book 26 of Deeds at Page 238, Marin County Records; thence along the Southwesterly line of said lot, South 38°04' East 278.3 feet to the most Southerly corner of said lot; thence along the Easterly line of said lot, North 14°59' East 153.6 feet to the Southerly line of the Toll Road; thence Easterly along the Southerly line of the Toll Road 6.6 feet to the Westerly bank of the said tidal canal South 11°04' West 289 feet; thence continuing along said Westerly bank on the arc of a circle having a radius of 441.7 feet, 462.3 feet to the said Easterly line of Petaluma Avenue; thence Northerly along the said Easterly line of Petaluma Avenue 702.8 feet to the point of beginning.

EXCEPTING THEREFROM all that portion thereof as contained in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 608, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof described as follows: A STRIP OF LAND, 10 feet in width, lying Southeasterly of and contiguous to the Southeasterly boundary of that certain parcel of land described in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 508, Marin County Records.

Exhibit 2e

ALSO EXCEPTING THEREFROM all that portion thereof lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL THREE

AN EASEMENT for sanitary sewer purposes described as follows:

A STRIP of land of the uniform width of 20 feet, the centerline of which is described as follows:

COMMENCEMENT at a point on the Easterly line of Lindaro Street at the Intersection of two courses bearing South 7° 15' West and South 8° 15' West, as said courses are shown upon that map entitled, "Map of a Portion of Lindaro Street, City of San Rafael, Marin County, California", filed for record March 2, 1937 in Volume 2 of Official Surveys, at Page 83, Marin County Records; thence North 8° 53' East 32.92 feet to the true point of beginning; thence Southeasterly perpendicular to the aforementioned Easterly line, 315.00 feet; thence along a tangent curve to the left, through a central angle of 510 00' 00" having a radius of 215.00 feet, an arc distance of 191.37 feet; thence North 47° 53' East 70 feet, more or less, to the termination of the easement and also the Westerly line of Lincoln Avenue, described as an arc 194.78 feet long in a Deed from the City of San Rafael to the Pacific Gas and Electric Company, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, Marin County Records.

PARCEL FOUR

That certain real property situate in the City of San Rafael, County of Marin, State of California, more particularly described as follows:

COMMENCING at the intersection of the southerly line of Second Street with the easterly line of Lincoln Avenue, said point being located South 50°10'00" East 0.32 feet from a lead plug and tag RE5561 set in a concrete sidewalk, and as shown on the Record of Survey Map filed May 10, 1985 in Book 20 of Surveys at Page 47,- Marin County Records;

thence along said southerly line of Second Street South 83°33'00" East 140.70 feet to the southwesterly line of Francisco Boulevard;

thence leaving the southerly line of Second Street and along said southwesterly line of Francisco Boulevard, South 51°37'29" East 98.68 feet to the westerly line of Parcel 4, conveyed to the San Rafael Redevelopment Agency by deed recorded October 30, 1997, in Document No. 97-062019;

thence along said westerly line South 11°32'07" West 95.76 feet to the True Point of Beginning;

thence continuing along said westerly line South 11°32'07" West 189.48 feet; thence on a curve to the right tangent to the preceding course having a radius of 441.70 feet through a central angle of 36°01'12", an arc length of 277.68 feet to the easterly line of aforementioned Lincoln Avenue;

Exhibit 2e

thence along said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North $60^{\circ}08'08''$ East 473 feet, through a central angle of $01^{\circ}17'20''$, an arc length of 10.64 feet;

thence leaving said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North $31^{\circ}36'30''$ West, a distance of 315.00 feet, through a central angle of $50^{\circ}24'27''$, an arc length of 277.13 feet;

thence North $12^{\circ}06'01''$ East 102.01 feet;

thence North $06^{\circ}19'27''$ East 109.66 feet;

thence leaving the westerly line of said tidal slough North $80^{\circ}50'15''$ West 13.96 feet to the Point of Beginning.

Said Parcel contains an area of 0.24 acres, more or less.

Exhibit 2e

"NORTHERN PARCEL"

(Portion of APN 011-
265-01)

PARCEL 1 (2402-06-0520)

The parcel of land conveyed by Allan Lee and others to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated March 22, 1888 and recorded in Book 7 of Deeds at page 532, Marin County Records, and therein described as follows:

"BEGINNING at the Northwesterly corner of lot number One (1) in block number forty one (41) as the same is marked shown and numbered on the Plat of the Town Site of the Town of San Rafael made by Hiram Austin and filed in the office of the County Recorder of said County of Marin on the 14th day of October 1873 running thence easterly along said southerly line of Third Street as shown on said plat two hundred (200) feet, thence at right angles southerly One hundred and fifty (150) feet, thence at right angles Westerly parallel with the southerly line of Third Street two hundred (200) feet to the easterly line of a Street marked on said plat, thence Northerly along the Easterly line of said last mentioned street one hundred and fifty (150) feet to the point of beginning."

PARCEL 2 (2402-06-0526)

The parcel of land conveyed by Will Brooks to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated November 10, 1893 and recorded in Book 28 of Deeds at page 88, Marin County Records, and therein described as follows:

"COMMENCING at a point on the South side of Third Street distant one hundred and ninety five 4/12 feet Easterly from A Street thence running South at right angles to Third Street three hundred and eight feet to Second Street one hundred and ninety five 4/12 feet east from A Street thence running Easterly along Second Street one hundred and Sixty eight feet thence North by West to a point distant three hundred and ten 4/12 feet from A Street Easterly and one hundred and eighty one feet South from Third Street thence North in a line parallel to A Street one hundred and eighty one feet to Third Street thence West along Third Street one hundred and fifteen feet to the place of beginning."

EXCEPTING THEREFROM that portion thereof described in the deed from Pacific Gas and Electric Company to the City of San Rafael recorded April 10, 1912 in Book 142 of Deeds at page 439, Marin County Records.

PARCEL 3 (2402-06-0525)

The parcel of land conveyed by Edward B. Mahon to the San Rafael Gas and Electric light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated December 6, 1899 and recorded in Book 58 of Deeds at page 210, Marin County Records, and therein described as follows:

"BEGINNING at the South West corner of the lot occupied by the San Rafael Gas & Electric Light Company's gas works said point being on the East line of Court Street and distant 150 feet South

Exhibit 2e

from the South line of Third Street thence from said beginning point, running S. 6 3/4° W. along the East line of Court Street (150) One hundred and fifty feet, thence Easterly, parallel with Third Street (300) Three hundred feet, to the West line of a Street called Lindaro Street, thence North along the West line of Lindaro Street (150) One hundred & fifty feet to the North boundary line of Lot 2 in Block 41, as per Map of Town site of the Town of San Rafael filed Oct. 14th 1873 in the County Recorder's Office of said Marin County, running thence Westerly along said boundary line (300) three hundred feet to the point of beginning."

PARCEL 4 (2402-06-0523)

The parcel of land conveyed by the City of San Rafael to Pacific Gas and Electric Company by deed dated November 22, 1910 and recorded in Book 132 of Deeds at page 279, Marin County Records, and therein described as follows:

"Commencing at a point formed by the intersection of the southerly line of Third Street with the westerly line of Court Street, and running thence easterly and along said line of Third Street sixty-six (66) feet, more or less, to the easterly line of Court Street, thence at a right angle southerly and along said easterly line of Court Street three hundred and ten (310) feet, more or less, to the northerly line of Second Street, thence at a right angle westerly and along said last mentioned line sixty-six (66) feet, more or less, to the westerly line of Court Street, and thence northerly and along said last mentioned line three hundred and ten (310) feet, more or less, to the southerly line of Third Street and the point of commencement."

PARCEL 5 (2402-06-0524)

The parcel of land conveyed by Peter Williams and Emma Williams to Pacific Gas and Electric Company by deed dated June 17, 1911 and recorded in Book 136 of Deeds at page 174, Marin County Records, and therein described as follows:

"Commencing at the intersection of the south line of Third Street with the west line of Lindaro Street and running thence westerly along the south line of Third Street one hundred feet, thence southerly parallel with Lindaro Street one hundred and fifty feet; thence at right angles easterly one hundred feet to the west line of Lindaro Street, thence northerly along the said west line of Lindaro Street one hundred and fifty feet to the place of commencement."

RESOLUTION NO. 20-

**RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL THE
ADOPTION OF AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT (DA19-001)
FOR THE SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791
LINCOLN AVENUE AND 999 3rd STREET) TO EXPAND THE ALLOWABLE
DEVELOPMENT AND OVERALL LAND AREA TO INCLUDE TWO RESEARCH AND
DEVELOPMENT BUILDINGS TOTALING 207,000 SQAURE FEET
AND TO DEFINE THE AGREEMENT TERMS
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael. Concurrent with this action, the City Council adopted Ordinance No. 1722 approving a Development Agreement with Fair, Isaac and Company, Inc., the initial project developer and initially-envisioned single-tenant for the office park. The Development Agreement included specific terms, conditions and requirements agreed by both the City and Fair, Isaac for a 10-year build-out of the San Rafael Corporate Center; and

WHEREAS, in August 2000, the San Rafael City Council adopted Ordinance No. 1755, approving the first amendment to the Development Agreement to approve changes in the property ownership (Equity Office) and to the development standards in order to accommodate multi-tenant use of the office park (San Rafael Corporate Center). Since 2000, the office park ownership has changes and subsequent amendments to the Development Agreement were adopted to reflect the ownership changes; and

WHEREAS, in December 2011, the City Council adopted Ordinance No. 1902, approving a second amendment to the Development Agreement for the San Rafael Corporate Center to expand the allowable land uses to include medical office and research and development; and

WHEREAS, since 2000, much of the San Rafael Corporate Center office park campus has been developed and largely occupied by administrative and professional office businesses. To date, five of the six office buildings and two parking structures have been built, along with surface parking, campus landscaping and the publicly-accessible park area. When the remaining phase of the office park is developed, the San Rafael Corporate Center will be built-out at 473,096 square feet. The terms of the Development Agreement vest project build-out through 2013, with options for additional extensions through 2015; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Amendment (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Development Agreement (DA19-001), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft., and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street.; and

Exhibit 2f

WHEREAS, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3rd Street property to be incorporated into the existing San Rafael Corporate Center (SRCC) PD District. The total site area of the amended SRCC campus would be 795,021 sq. ft.; and

WHEREAS, the project application for BioMarin includes a request to modify the existing Floor Area Ratio (FAR) for the 118,099 square feet of the 999 3rd Street property from 1.50 to 0.90 and a request to modify the existing FAR for the SRCC from 0.75 to 0.90. The total FAR of 0.90 for the newly amended SRCC would allow the two proposed buildings, totaling 207,000 sq. ft., of the BioMarin project to be included in the total allowed campus development of 715,519 sq. ft.; and

WHEREAS, a Development Agreement was requested by BioMarin to establish a 10 year time frame for the approvals for the BioMarin component of the project and freezing of development impact fees for a period of 10 years and in exchange for the Development Agreement, a series of public benefits have been proposed; and

WHEREAS, a full and complete copy of the approved and executed Development Agreement with subsequent amendments is on file with the offices of the City Clerk and City Attorney and are available for public review; and

WHEREAS, a Development Agreement has been drafted by the BioMarin Pharmaceutical Inc. and the Office of the City Attorney to incorporate the proposed terms and obligations for both parties; and

WHEREAS, on January 28, 2020 the Planning Commission held a duly noticed public hearing on the FEIR/Response to comments and considered the FIER along with the project applications/entitlements; and

WHEREAS, on January 28, 2020, by adoption of a separate Resolution, the Planning Commission recommended to the City Council certification of the Final EIR for the project, including the Development Agreement; and

WHEREAS, on January 28, 2020, by adoption of a separate Resolution, the Planning Commission recommended to the City Council 1) adoption of California Environmental Quality Act (CEQA) findings of fact, 2) adoption of a Statement of Overriding Considerations, and 3) approval of the Mitigation Monitoring and Reporting Program (MMRP) for the project, including the Development Agreement; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the proposed Development Agreement application, accepting all public testimony and the written report of the Department of Community Development; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolutions, recommended to the City Council 1) approval of a General Plan amendment, 2) adoption of the Planned Development (PD) Rezoning (ZC18-002), 3) adoption of Zoning Ordinance Text Amendment (ZO18-003), and 4) approval of Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

Exhibit 2f

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission recommends to the City Council the adoption of the following Development Agreement to the San Rafael Corporate Center Development based on the following findings:

Development Agreement Findings (DA19-001)

1. The proposed Development Agreement is consistent with the policies, general land uses and programs specified in the General Plan and other applicable specific plan given that the proposed office and research and development uses within the BioMarin campus would be consistent with the 2/3 MUE general plan land use designation, the proposed floor area ratio and height of the building are consistent with the FAR and height standards, with the inclusion of a General Plan amendment, which has been recommended and adopted by separate resolution. As drafted, overall, the amendments would be consistent with:
 - a. Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts.
 - b. Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high-quality mixed-use development in the downtown designated areas;
 - c. Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.
2. The proposed development agreement is compatible with the uses authorized in the regulations prescribed for, the land use district in which the property is located based on finding #1 above, an amendment to the PD is requested and recommended for adoption by separate resolution with which the intensity, land use would be consistent.
 - a. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies;
 - b. The proposed blended 0.90 Floor Area Ratio will reduce the existing 999 3rd Street FAR but raise the existing SRCC FAR from 0.75 to 0.90. The net change will result in a total floor area that will be an increase in 30,678 sq ft for the newly modified total project area.
 - c. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development

Exhibit 2f

increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.

3. The proposed development agreement is in conformity with public convenience, general welfare and good land use practice in that the proposed project results in the following public benefits:
 - a. This action would provide desired public benefits and amenities as described in the modified General Plan Exhibit 10, including: Affordable housing (67 senior affordable units), a privately-owned public plaza (approximately 6,000 sq. ft.), a community facility (18,000 sq. ft. senior center), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
4. The proposed development agreement will not be determinantal to the health, safety and general welfare, given that an EIR has been prepared to assess potential environmental impacts and most potential impacts can be reduced to less than significant levels with mitigation measures, 2) the Commission through adoption of a separate resolution has adopted statement of overriding considerations to four potential impacts to land use and transportation associated with the development of the project;
 - a. The City of San Rafael has determined that the project has balanced the economic, legal, social, and technological benefits of the proposed project against its unavoidable environmental impacts when determining to approve the project. The project benefits outweigh the unavoidable adverse environmental effects and are considered “acceptable” and a statement of overriding considerations has been adopted and supported by substantial evidence in the record;
 - b. In support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards;

BE IT RESOLVED, that the Planning Commission recommends to the City Council the adoption of the following Development Agreement to the San Rafael Corporate Center Development with the following scope, term, city obligations and public benefits:

Scope: BioMarin’s current campus, the 999 Third St. project, 755 Lindaro St., and the expansion of the Lincoln Parking Structure.

Term: 10 years following the effective date.

City Obligations

1. 10-year term for vesting of entitlements for the 999 Third St., 755 Lindaro St. and Lincoln Parking Structure provided:
 - a) If BioMarin has not commenced construction of 999 Third St. by the 6th anniversary of the effective date of the DA, then BioMarin shall construct the Class II Bike lane along Lindaro from 3rd to Anderson as described in new obligation #5 and the improvements to the 2nd and Lindaro intersection per new obligation #8, below;

Exhibit 2f

- b) If BioMarin has not commenced construction of second building at 999 Third Street by the 8th anniversary of the effective date of the DA, the vesting of the entitlements for the development of 755 Lindaro Street will expire; and.
- c) Annually, on request by the City, BioMarin will report to the City on the status of its development plans related to the DA.
- 2. Remove existing condition imposed on 755 Lindaro/Lincoln Garage for Pedestrian connection to SMART along Creek for public safety.
- 3. Relocate the existing conference rooms available for public use from 755 Lindaro to 999 3rd street with the same terms and conditions previously accepted by BioMarin and the City.
- 4. Freeze City development impact fees (traffic mitigation and affordable housing linkage fee) at in place as of the initial approval of the Development Agreement.

BioMarin Obligations/Benefits

Existing Obligations/Benefits to Remain

- 1. Public use of Park
- 2. Public use of 2,500-square foot Conference Center
- 3. Public use of Lindaro surface lot

Additional Obligations/Benefits Offered in the DA

- 1. Provide Whistlestop the portion of 999 Third St. for senior housing development through a land swap for the Lindaro corporation yard, which due to the delta in value of the two properties results in BioMarin's donation of \$1.2M to support the development of the healthy aging center and affordable senior housing.
- 2. Contribute, \$100,000 each year (commencing on the first anniversary of the DA) for 4 years to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.
- 3. Remediate a brownfield in the heart of downtown San Rafael, resulting in BioMarin out of pocket costs of over \$2M and total remediation costs of over \$16M.
- 4. Contribute \$500,000 to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City. This may be payable in full at the first anniversary of the DA, or \$125,000 each year (commencing on the first anniversary of the DA) for 4 years
- 5. Add Class II Bike lane along Lindaro from 3rd to Anderson with completion of Phase I
- 6. 6,000 sf Public Plaza "Front Porch"
- 7. 3,500 sf Retail open to public
- 8. Improve intersection of 2nd & Lindaro with completion of Phase I
- 9. Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is

Exhibit 2f

responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

Exhibit 2g

RESOLUTION NO. 20-

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A MASTER USE PERMIT (UP18-034), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-087), SMALL SUBDIVISION (S18-001) AND SIGN PROGRAM AMENDMENT (SP18-006) TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS AND A 67-UNIT, 70-FOOT TALL, SIX-STORY SENIOR CENTER AND AFFORDABLE SENIOR HOUSING BUILDING ON A 133,099 SQ. FT. PARCEL AT 999 3rd St AND ADJACENT SAN RAFAEL CORPORATE CENTER.
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, BioMarin submitted a Pre-Application in August of 2016 to allow the City to review technical review of major code requirements by City departments. Following subsequent City comments, BioMarin modified its project by reducing the requested total development square feet on 999 3rd Street as well as the requested height bonus; and

WHEREAS, BioMarin and Whistlestop submitted an application for Conceptual Design Review and this conceptual application was reviewed by the Design Review Board on February 6, 2018 and by the Planning Commission on February 27, 2018. In general, the DRB and the Planning Commission were generally supportive of the proposed project including the design aesthetics, the overall height, and intensity of use. Comments were provided to Whistlestop/Eden Housing requesting the project design meet the requirements for front setbacks and suggested the proposal could include more height (and more units) to compensate for meeting the front setback requirements. Comments regarding parking included understanding the applicant's survey and existing conditions assessment; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA19-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Rezoning (ZC18-002), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) for the development of two 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft., and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, on March 12, 2019, the Planning Commission (Commission) held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Cultural Resources, Energy, Geology and Soils, Greenhouse Gases, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Recreation, Transportation/Traffic, Utilities, and Cumulative effects and a reasonable range of alternatives; and

WHEREAS, the Planning Commission conducted a Study Session public hearing on May 14, 2019 to understand and evaluate the development program and entitlement requests. The Commission was generally supportive of the project; and

WHEREAS, on June 18, 2019, the San Rafael Design Review Board (DRB) conducted a duly-noticed public meeting, conducting the formal review, reviewing project plans and found that the project Design was generally appropriate, including the massing, color, materials, and continued the project for a consent calendar review, subject to minor revisions to landscaping and façade treatments; and

Exhibit 2g

WHEREAS, the Draft EIR (DEIR) was prepared and circulated for a 45-day public review period beginning August 9, 2019 and ending September 23, 2019 (SCH # 2019029046). As part of this review, on September 24, 2019, the Planning Commission held a duly-noticed public hearing to consider and accept comments on the DEIR. The DEIR concluded that the Project would result in significant, unavoidable impacts associated with Land Use and Planning and Transportation. All other significant impacts identified in the DEIR were identified to be mitigated to less-than-significant levels with implementation of mitigation measures recommended in the DEIR; and

WHEREAS, on August 20, 2019, the DRB conducted a duly-noticed public meeting and reviewed the revised Project plans and found that the requested revisions were acceptable, and unanimously voted to recommend approval of the project design to the Planning Commission; and

WHEREAS, based on written and oral comments received from the public on the DEIR and its own review of the DEIR, the Planning Commission directed staff to prepare a Final Environmental Impact Report (FEIR) and respond to comments received on the DEIR; and

WHEREAS, pursuant to Public Resources Code Section 21091(d)(2)(A) and CEQA Guidelines Sections 15088, 15089 and 15132, the City responded to all the environmental comments that were submitted on the DEIR during the public review period and a FEIR was completed; and

WHEREAS, on January 10, 2020, Notice of Availability for the FIER/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and written responses to public agency comments were provided to agencies who commented on the DEIR; and

WHEREAS, on January 11, 2020, the notice of availability was also published in the Marin Independent Journal newspaper; and

WHEREAS, in considering the Master Use Permit, Environmental and Design Review Permit Small Subdivision and Sign Program Amendment applications, the Planning Commission has reviewed and considered the FEIR and all applicable mitigation measures therein. The FEIR concludes that the Project will result in significant and unavoidable adverse environmental land use and transportation impacts. No feasible mitigation measures can be implemented by the City to reduce transportation impacts identified in the FEIR as significant and unavoidable due to potential conflicts with Land Use Element Policy LU-2 and Circulation Element Policy C-5. The Planning Commission has weighed the proposed project benefits against the unavoidable, adverse environmental effects.

WHEREAS, by separate resolutions, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), the Planning Commission has recommended to the City Council approval of the CEQA Findings of Fact, an exception to the Circulation Element Policy C-5 (Level of Service), a Statement of Overriding Considerations, which support approval of the proposed BioMarin/Whistlestop project and the accompanying planning applications. These separate Resolutions also recommend the approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

WHEREAS, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and adopted a separate Resolution certifying the FEIR in that it complies with the requirement of CEQA; and

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WHEREAS, on January 28, 2020, the Planning Commission also adopted by separate Resolution, Statement of Overriding Considerations and Approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of a separate resolutions, recommended to the City Council 1) approval of a General Plan amendment, 2) adoption of the Planned Development (PD) Rezoning (ZC18-002), 3) adoption of Zoning Ordinance Text Amendment (ZO18-003), and 4) approval of a Development Agreement (DA19-001); and

WHEREAS, on January 28, 2020, the Planning Commission held a duly-noticed public hearing on the project, Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006), and accepting all oral and written public testimony and the written report of the Community Development Department Planning staff and closed said hearing on that date; and

WHEREAS, the Planning Commission of the City of San Rafael does hereby make the following findings related to the applications for the Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006);

Findings for Use Permit (UP18-034)

In accordance with the SRMC 14.22.080. Findings, following findings are required for approval of a use permit:

- A. As proposed and conditioned, the proposal to develop two, 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 square feet on 118,099 portion of the subject property and a 70-foot tall, 6-story, 67-unit senior affordable residential building with 18,000 square of healthy aging campus on 15,000 sq. ft. of the property, is in accord with the San Rafael *General Plan 2020*, the objectives of the Zoning Ordinance, and the purposes of the zoning district in which the Project site is located. Detailed discussion of the Project's consistency with the applicable General Plan policies is provided in detail in matrix format in the attached General Plan Consistency Analysis Table (Exhibit 3).

The discussion demonstrates that the Project is generally consistent with the applicable General Plan Policies:

- 1) As proposed, the Project's land uses are consistent with Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-9 (*Intensity of Nonresidential Development*), LU-10 (*Planned Development*) and LU-14 (*Land Use Compatibility*) in that:
- Laboratory and general office uses are an allowable use in the 2nd/3rd Mixed Use General Plan Land use designation in which the Project site is located;
 - The proposed 207,000 sq ft on the remaining 118,099 square foot lot at 999 3rd St would be consistent with the maximum floor area ratio (FAR) limits, as modified through the corresponding General Plan amendment which established a blended FAR maximum of 0.90 for the 999 3rd St site and the San Rafael Corporate Center campus; and
 - The BioMarin portion of the project complies with the established height limits, through the provision of a General Plan amendment and Zoning text amendment to create a new height bonus for this site in exchange for certain public benefits. In addition, the Whistlestop component of the project complies with the height limit through a concession allowed under the State Density Bonus law, where the height bonus is necessary to make the project financially feasible and result in identifiable cost reductions

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- 2) As proposed and conditioned, the Project's land uses would be consistent with C-6 (*Proposed Improvements*), C-7 (*Circulation Improvements Funding*) and C-12 (*Transportation Demand Management*), in that:
 - a. The laboratory/office uses would be subject to the adopted citywide traffic mitigation fees, which would be used to fund long-term transportation improvements to maintain Level of Service (LOS) standards as identified in Circulation Policy C-6 and the payment of the mitigation fees will fund citywide improvements consistent with Circulation Policy C-7. The payment of fees would be in addition to installing the required intersection and pedestrian improvements identified in the EIR. However, the Whistlestop/EDEN affordable housing project is exempt from payment of traffic mitigation fees, per a exemption identified in the City Council Resolution Traffic Mitigation fee ; and
 - b. The Project is conditioned to require the preparation and submittal of a Transportation Demand Management (TDM) plan that would implement transportation demand measures such as encouraging employees, through incentives to carpool and use public transit and other alternative means of transport.
- 3) The project would be inconsistent with Circulation Element Policies C-5 (Traffic Level of Service Standards), but findings to grant an Exception to Level of Service standards have been made,
 - a. The increase in traffic estimated for the proposed uses would impact and change level of service conditions at local intersections and would warrant new transportation improvements that have been identified in the BioMarin and Whistlestop/Eden Housing Project Final EIR;
 - b. The Final Environmental Impact Report (FEIR) recommend for certification by the City of San Rafael City Council for this Project through a separate Resolution, identifies that the additional traffic from the Project creates impacts to current Level of Service (LOS) conditions that cannot feasibly be mitigated to less than significant levels based on conflicts with the following two policies:
 1. Policy LU-2 Development Timing, in that Final Environmental Impact Report (FEIR) certified by the City of San Rafael for this project, identifies that the project the project would add a significant number of daily vehicle trips to this area of San Rafael, and levels of service at nearby intersections would be degraded. Policy LU-2 specifies that new development should only occur when adequate traffic conditions and circulation improvements are available.
 2. Policy C-5. Traffic Level of Service Standards, in that Final Environmental Impact Report (FEIR) certified by the City of San Rafael for this project, identifies that the project would impact the level of service (LOS) to the circulation network around the project area, which would operate at unacceptable levels of service under project conditions.

The FEIR has concluded that these impacts are significant unavoidable impact for which there is no feasible mitigation. Nevertheless, it is noted that Public Resources Code section 21082.2(e) provides that statements in an EIR are not determinative of whether a project may have a significant effect on the environment.

 - c. Further, the San Rafael General Plan 2020 includes flexibility in determining project consistency. Specifically, Policy C-5.D (*Evaluation of Project Merits*), and program C-5.c (*Exception Review*) provides that "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." Accordingly, the project's benefits have been evaluated by weighing the goals and policies of all

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elements, including, but not limited to: the Land Use Element, Circulation Element, Housing Element, Conservation Element, and Safety Element. Due to the project's benefits, the City has found and determined that the project's benefits outweigh potential impacts. Accordingly, the project is considered consistent with the San Rafael General Plan 2020.

- d. The Planning Commission finds and recommends to the City Council that the project benefits, including the following: furtherance of city goals and policies, development of an existing infill site, voluntary donation of development area, voluntary monetary contribution for shuttle service, voluntary monetary contribution for signal synchronization, development opportunity for Whistlestop/Eden housing, leaseback donation for Whistlestop/Eden housing, provide public meeting space and urban open space, contributions to pedestrian/bicycle safety, and provision of public parking.
- 4) As proposed, the Project's land uses would be consistent with Neighborhood Element Policies NH-40 (*Second Third Mixed Use District*), NH-41 (*Second Third Mixed Use District Design Considerations*), NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*), NH-8 (*Parking*), in that it would: facilitate additional employment and future economic success in the Downtown San Rafael area; allow compatible land uses that would fill current and long-term projected vacancies in laboratory and general office space; and provide required amount of parking required for the proposed uses; and .
- 5) As proposed, the Project's land uses would be consistent with the Community Design Element Policy CD-21 (*parking lot landscaping*) in that the uses proposed will have an approved landscaping plan and design that will provide shade cover and adequate screening of vehicles within parking lot areas.
- 6) As proposed, the Whistlestop proposal to provide 67 affordable housing units would be consistent with H-9 (*Special Needs*), H-13 (*Senior Housing*), H-14 (*Adequate Sites*), H-15 (*Infill Near Transit*) and H-17 (*Regulatory Processes and Incentives for Affordable Housing*), in that:
 - a) The project would provide all 67 of the new units as affordable to seniors, serving the special need for affordable senior housing in the community;
 - b) The new housing would be located new blocks from major transit, including the Bettini Transit Station and downtown SMART station
 - c) The proposal utilizes the density bonus, including an greater density bonus that allowed by the state for which the City can accept if it finds that amount of affordable housing is greater than that required by the inclusionary housing ordinance. In this case, the inclusionary housing ordinance would require 20% of the units to be affordable, while this project proposes that all 67 units are affordable to seniors
- 7) As proposed, the Project's land uses would be consistent with the Economic Vitality Element Policy EV-1 (*Economic Health and Quality of Life*) and EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*) in that:
 - a. The development of the residential, laboratory, and general office building would improve the downtown area for San Rafael and Marin County residents;
 - b. The proposed uses would ensure that two of the marquee employers in San Rafael would continue to provide jobs in a location close to freeway access; and
 - c. Allow a large pediatric pharmaceutical business and senior services business to remain in San Rafael and continue to serve the City and county at large.
- 8) As proposed, the Project's land uses would be consistent with newly adopted Sustainability Element Policies SU-1 (*Land Use*) and SU-2 (*Promote Alternative Transportation*), and the adopted Climate Change Action Plan in that: the uses are proposed within a vacant parcel adjacent to an office park that is close to public transit (Bettini Transit Station and SMART rail station at Downtown).

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- 9) The approval of the Project's land uses would be consistent with the PD-1936 District, as amended by adoption of the PD Rezoning (ZC18-002), which would permit the 207,000 sq. ft of BioMarin development to be incorporated into the existing San Rafael Corporate Center.
- B. That the Project's proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City in that:
- 1) A FEIR has been prepared and recommended for certification for the Project pursuant to the provisions of the California Environmental Quality Act (CEQA), which finds that all potentially significant project impacts related to health and safety can be adequately mitigated to a less-than-significant level with the implemented mitigation measures outlined in the approved Mitigation Monitoring and Reporting Program (MMRP), for which compliance is required by conditions of this approval.
 - 2) A Statement of Overriding Considerations has been prepared and recommended for adoption by separate Resolution to address impacts that could not be mitigated to less than significant levels. The Statement of Overriding Consideration concludes that the Project would not be detrimental to public health, welfare of safety, given the fact that the override only addresses timing of the installation of the improvement, which would be required to be constructed prior to full occupancy of the medical office building.
 - 3) Additionally, the Project has been reviewed by Community Development Department, the Department of Public Works, and other appropriate City Departments and conditions have been applied to minimize potential impacts to the public health, safety and welfare.
- C. That the proposed use, together with the conditions applicable thereto, would comply with each of the applicable provisions of the amended Planned Development (PD) Zoning District contained in the Zoning Ordinance. The 118,099 sq. ft. BioMarin portion of the Project site is proposed to be removed from the current 2/3MUE Zoning District and rezoned to be included in the current San Rafael Corporate Center PD District (PD-1936) with updated development standards and land use regulations with which the Project would be consistent. The Project would also comply with other applicable provisions in the Zoning Ordinance. That the proposed Whistlestop/Eden Housing uses together with the conditions applicable thereto, would comply with each of the applicable provisions of the 2/3MUE Districts contained in the Zoning Ordinance
- 1) The proposed project has been reviewed by appropriate City departments. Conditions of approval recommended by other departments have been applied to minimize potential adverse visual, design, and safety impacts to the project site and adjacent properties; and
 - 2) The proposed Planned Development Zoning amendment to add the 118,099 sq ft of land area for development of 207,000 sq ft of laboratory and general office to the allowable uses under the revised San Rafael Corporate Center Planned Development would be consistent with the "2/3 MU" General Plan land use designation for this site and research and development and general office uses would be consistent with the PD land uses allowances as adopted by the amended PD zoning.

Findings for Environmental and Design Review Permit (ED18-087)

In accordance with SRMC 14.25.090. Findings, following findings are required for approval of an Environmental and Design Review Permit:

- A. That the proposed 999 3rd Street BioMarin/Whistlestop/Eden Housing project is in accord with the General Plan, the objectives of the Zoning Ordinance, and the purposes of the district in which the site is located. A

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detailed discussion of the project's consistency with the applicable General Plan policies is provided in Use Permit findings above, and in matrix format in the General Plan Consistency Analysis included in the staff report. Detailed discussion of the project's consistency with the applicable Zoning criteria is provided in matrix format in the General Plan Consistency Analysis, which is on file with the Community Development Department. The discussion demonstrates that the project is generally consistent with the applicable Zoning criteria.

- B. The proposed project complies with the design related criteria of Chapter 14.25 Environmental and Design Review Permits in that:
- 1) The project does not interrupt major views of Mt. Tamalpais and surrounding hills;
 - 2) The site design provides for good vehicular, bicycle and pedestrian circulation and access;
 - 3) The front, north and south side elevations of the proposed buildings have appropriate level of massing and articulation combined with the types and colors of materials to create interest;
 - 4) The main vehicular and pedestrian access between the street and the buildings are oriented toward the building entry thereby creating a sense of entry;
 - 5) The DRB has determined that the proposed design provides appropriate variation in structure placement and height;
 - 6) The proposed landscaping generally conforms.
 - 7) Project architecture with appropriate massing, articulation, building colors and natural materials in earth tone colors with the blue color providing accent to the color palette, is harmoniously integrated in relation to the architecture in the vicinity in terms of colors and materials, scale and building design.
 - 8) This proposed parking requirements for this campus include a requirement for 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for general office uses, 1.5 parking spaces per 1,000 GSF for laboratory/research and development uses, and 1.0 spaces per 1,000 GSF of amenity uses for the newly expanded San Rafael Corporate Center PD District. The adequacy of the proposed parking standards have been evaluated and demonstrated that they are adequate to support the parking demand from the proposed use.
- C. That 999 3rd Street BioMarin/Whistlestop/Eden Housing project design minimizes adverse environmental impacts in that:
- 1) A FEIR has been prepared and recommended for certification for the Project pursuant to the provisions of the California Environmental Quality Act (CEQA), which finds that all potentially significant project impacts related to health and safety can be adequately mitigated to a less-than-significant level with the implemented mitigation measures outlined in the approved Mitigation Monitoring and Reporting Program (MMRP), for which compliance is required by conditions of this approval.
 - 2) That there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project. According to Public Resources Code, Section 21082.2, subdivisions (a) and (e), the lead agency (City) is tasked with determining the significance of impacts and statements in an FEIR are not determinative of significance. As set forth in the CEQA findings for this project, recommended by the Planning Commission by separate resolution, the City has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue.
 - 3) The City, however, has determined that the project is consistent with all of the pertinent General Plan goals and policies, including Policies LU-2 and C-5. Specifically, Policy C-5 allows the City to approve projects that exceed the level of service (LOS) standards if it finds that the benefits of the project to the

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community outweigh the resulting traffic impacts. The project, therefore, meets the traffic standards set forth in the San Rafael General Plan 2020. Further, because the project meets the traffic standards set forth in Policy C-5, and other infrastructure such as water and sewer is in place, the project is consistent with Policies LU-2. As explained in the FEIR, per CEQA Guidelines Section 15063, in order to adopt the proposed amendment to the San Rafael General Plan 2020, the City must weigh the benefits of the project against the unavoidable, adverse environmental (traffic) effects of the project and adopt a statement of overriding consideration. Similar findings are required by San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (*Exception Review*), which permits the City to approve a project that exceeds the LOS standards if the City finds that the project's benefits to the community outweigh the project's traffic impacts.

- 4) The Planning Commission finds that an Exception to the Level of Standards per Circulation Element Policy C-5c is warranted and granted based on the fact that the project provides significant community benefits and based on the economic, social, technological and/or other benefits of the project to the community substantially outweigh the project's impacts on circulation. Specifically, this action would provide desired public benefits and amenities as described in the modified General Plan Exhibit 10, including: Affordable housing (minimum 60 units), a privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area. In addition, the proposed project will contribute \$500,000 to synchronize traffic lights and \$400,000 to the City transportation and pedestrian initiatives.
 - 5) Furthermore, the Commission finds that all feasible mitigation measures have been required of the project, including those identified in the project Final EIR that ensure temporary air, noise, and other construction related impacts would be less than significant. In addition, the Final EIR recommends several transportation related mitigation measures including Transportation Demand Management and infrastructure improvements that will reduce potential pedestrian and bicycle impacts to less than significant levels.
 - 6) Statement of Overriding Considerations has been prepared and recommended for adoption by separate Resolution to address impacts that could not be mitigated to less than significant levels. The Statement of Overriding Consideration concludes that the Project would not be detrimental to public health, welfare of safety, given the fact that, through adoption of a separate statement of overriding considerations to four potential impacts to land use and transportation associated with the development of the project, the City of San Rafael has determined that the project has balanced the economic, legal, social, and technological benefits of the proposed project against its unavoidable environmental impacts when determining to approve the project. The project benefits outweigh the unavoidable adverse environmental effects and are considered "acceptable" and a statement of overriding considerations has been adopted and supported by substantial evidence in the record.
 - 7) The project design would not result in potential adverse environmental impacts that cannot be mitigated with specific mitigation measures, as documented in the FEIR for this project. A separate resolution adopting the FEIR has been prepared.
- D. The design of the 999 3rd Street BioMarin/Whistlestop project, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City, given that; an EIR has been prepared for the project identifying potential environmental impacts resulting from the project. All potential adverse environmental impacts have been determined to be either no impact, less-than-significant, or less-than-significant with implementation of mitigation measures, with the exception of the impacts to level of service to the local circulation network. There is no feasible mitigation for impacts to local intersections and the

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project sponsor requests the Commission adopt a Statement of Overriding Considerations to allow the significant unavoidable impact, based on the public benefits of the project.

- 1) The proposed project has been reviewed by appropriate City departments. Conditions of approval recommended by other departments have been applied to minimize potential adverse visual, design, and safety impacts to the project site and adjacent properties; and
- 2) The proposed Planned Development Zoning amendment to add the 118,099 sq ft of land area for development of 207,000 sq ft of laboratory and general office to the allowable uses under the revised San Rafael Corporate Center Planned Development would be consistent with the “2/3 MU” General Plan land use designation for this site and research and development and general office uses would be consistent with the PD land uses allowances as adopted by the amended PD zoning.

Findings for Small Subdivision (S18-001)

In accordance with SRMC 15.03.070. Findings, the following findings are required for approval of a Small Subdivision:

- A. The proposed map is consistent with the San Rafael general plan and any applicable, adopted specific plan or neighborhood plan in that it creates two distinct development areas consistent with surrounding development. The proposed map will create a mixed-use district that furthers the development of downtown San Rafael and promotes the “Alive after Five” policy;
- B. The design or improvement of the proposed subdivision is consistent with the San Rafael general plan and any pertinent, adopted specific plan or neighborhood plan in that the proposed project is consistent with Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high-quality mixed-use development in the downtown designated areas and Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses;
- C. The property subject to subdivision is physically suitable for the type or density of development that is proposed in that the proposed project is similar in size and scope of the neighboring San Rafael Corporate Center and includes much needed senior affordable housing in the downtown area;
- D. The property subject to subdivision is physically suitable for the density of development that is proposed in that the proposed project will be consistent with the density and type of development occurring in the San Rafael Corporate Center, and provides senior affordable housing near existing infrastructure and public transit;
- E. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that an EIR has been prepared to assess potential environmental impacts and most potential impacts can be reduced to less than significant levels with recommended mitigation measures. Through adoption of a separate statement of overriding considerations to four potential impacts to land use and transportation associated with the development of the project, the City of San Rafael has determined that the project has balanced the economic, legal, social, and technological benefits of the proposed project against its unavoidable environmental impacts when determining to approve the project. The project benefits outweigh the unavoidable adverse environmental effects and are considered “acceptable” and a statement of overriding considerations has been adopted and supported by substantial evidence in the record. The Final EIR for the proposed project does not identify any potential impact areas related to fish or wildlife habitat;

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- F. The design of the subdivision or the type of proposed improvements is not likely to cause serious health problems in that the proposed project would provide desired public benefits and amenities as described in the modified General Plan Exhibit 10, including: Affordable housing (67 senior affordable units), a privately-owned public plaza (approximately 6,000 sq. ft.), a community facility (18,000 sq. ft. senior center), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area; and
- G. The design of the subdivision or the type of proposed improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the city may approve the map if it is determined that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired or secured for public use.

Findings for Sign Program Amendment (SP18-006)

In accordance with SRMC 14.19.046. Findings, the following findings are required for approval of a Sign Program Amendment Permit:

- A. The signs contained in the amended BioMarin/Whistlestop/Eden Housing Sign program have common design elements placement, colors, architecture, materials, illumination, type, shape, letter size and letter type as the existing Sign Program for the San Rafael Corporate Center that governs the existing BioMarin campus;
- B. All of the signs contained in the program are in harmony and scale with the materials, architecture, and other design features of the buildings and property improvements they identify, and the program is consistent with the general design standards specified in Section 14.19.054; and
- C. The amount and placement of signage contained in the program is in scale with the subject property and improvements, as well as the immediately surrounding area.

Density Bonus /Concessions/Waivers Findings

- A. The Whistlestop component of the project complies with the City's affordable housing requirement, pursuant to SRMC Section 14.16.030, by providing 100 % of the 66 units as "affordable" or Below-Market-Rate (BMR) units, and one unit reserved for an on-site manager. All 66 of the affordable units would be affordable at Low or Very Low-income levels.
- B. By meeting the City's affordable housing requirement of 20%, the project is eligible for up to a 35% density bonus, or 9 units, above the maximum of 25 units allowed on the 15,000 sq ft site. In addition, the project is eligible for up to 3 concession and unlimited waivers under the State Density Bonus law.
- C. By also meeting the City's affordable housing requirement, the project is automatically eligible for a twelve-foot (12') height bonus under both the General Plan and SRMC Section 14.16.190, from 54' to 66'.
- D. The project proposes two (2) discretionary concessions/waivers:
 - 1) To achieve the proposed 67 units, a Concession is requested for proposed density above the base" total of 34 units (including the 35 percent density bonus).
 - 2) To achieve the proposed 70-foot height a Concession is requested for proposed height increase from maximum height of 66 ft (based on 54-ft base height, plus 12-ft bonus).

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- E. The additional density above the 35% and the 4 additional feet above the 12 ft established height bonus are considered major concessions (SRMC 14.16.030.H.3.b.v) and therefore are subject to approval of the City Council and require that the applicant demonstrate through a financial pro forma that the concessions are needed to make the project financially feasible.
- F. Based on SRMC 14.16.030.H.2, the City may, at its sole discretion, grant a density bonus exceeding the state minimum requirements where the applicant agrees to construct a greater number of affordable housing units than required pursuant to subsection (B)(2) of this section and necessary to qualify for the density bonus under this section. If such additional density bonus is granted by the city and accepted by the applicant, the additional density bonus shall be considered an additional concession or incentive for purposes of Section 65915. Given that the project proposes 100% of the 67 units as affordable for senior, the City finds that the 100% affordability provides a significant public benefit
- G. Based on the fact that the project provides all 66 of the 67 units as affordable units to low and very low income households and supported by the financial pro forma that demonstrates that the additional density and concessions are necessary to make the 100% affordable housing project feasible, the City hereby grants the additional density above the 35% density bonus to allow 67 units on the site and the concessions/waivers (proposed density bonus and proposed height bonus) as requested by the project.

BE IT FURTHER RESOLVED, that the Planning Commission recommends to the City Council the approval of Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-001) for the 999 3rd Street BioMarin/Whistlestop/Eden Housing project subject to the following conditions:

Master Use Permit (UP18-034) Conditions of Approval

Community Development Department, Planning Division

1. This Master Use Permit for the San Rafael Corporate Center approved a maximum of 715,519 sq. ft. of building area within eight (8) office buildings, which is composed of four areas:
 - a. Western Parcels - 775 Lindaro St parking garage (APN 013-012-38) and 755 Lindaro St parking lot and future office and Research and Development building (APN 013-012-39)
 - b. Central Parcels -750 Lindaro St office building (APN 013-021-53), 770 Lindaro St office building (APN 013-021-54), 770 Lindaro St office building (APN 013-021-55), 781 Lincoln Ave office building (APN 013-021-52), 791 Lincoln Ave office building (APN 013-021-51)
 - c. Eastern Parcel – 788 Lincoln Ave parking garage (APN 013-021-50)
 - d. Northern Parcel – 999 3rd St office and research and development buildings (APN portion of 011-265-01)
2. The approved uses within this campus include administrative office, general office and research/development uses and ancillary uses, as follows.
 - a. Administrative and General Office Use. These uses are defined by the San Rafael Municipal Code, Title 14 (Zoning);
 - b. Research and Development Use. Research and Development use is defined as a use engaged in scientific, medical or technological research with limited product testing and production. This use excludes full production industrial-type manufacturing and generally operates similar to and

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characteristic of low-intensity, general office use. Medical laboratories established for research (as opposed to labs providing testing services for patients/visitors) would be considered a research and development use. As research and development use is similar to and generally less intensive than general office use, it does not require the payment of any traffic mitigation fees or any provisions for additional on-site parking (over and above that approved for general and administrative office use).

- c. Ancillary Uses - Uses determined to be incidental or accessory to the above-listed land uses shall be permitted, as determined to be appropriate by the Community Development Director, including such uses as lobbies, conference rooms, employee spaces for gathering and or food consumption, gyms, amphitheatres, and other non-permanent general office spaces.

Residential and day care land uses are prohibited on the San Rafael Corporate Center campus by a recorded property deed restriction, described in condition 3, below.

3. The Use Permit approves the continued occupancy of the five (5) existing buildings and two (2) existing parking garages. In addition, the Use Permit approves the development and occupancy of three new buildings (two (2) new buildings at 999 3rd St and one (1) new building 755 Lindaro St) and an expansion to the Lincoln Ave parking garage as follows:
 - a. Two new buildings at 999 3rd St are allowed up to a total of 207,000 sq ft.
 - b. The new building at 755 Lindaro St is allowed to be up to 73,396 sq ft.
 - a. Six story expansion (256 spaces) to the southern end of the existing six (6) Lincoln Ave parking garage and 41 surface parking spaces at the southern end of the garage expansion
4. The Master Use Permit approves the existing uses and building on the campus and the development of the three new buildings in accordance with the terms of the Development Agreement (DA19-001). The Development Agreement establishes a **10-year term**, from the date of approval, until 2030 for the 999 Third St., 755 Lindaro St. and Lincoln Parking Structure expansion provided:
 - a) If BioMarin has not commenced construction of 999 Third St. by the 6th anniversary of the effective date of the DA, then BioMarin shall construct the Class II Bike lane along Lindaro from 3rd to Anderson as described in new obligation #5 and the improvements to the 2nd and Lindaro intersection per new obligation #8, below;
 - b) If BioMarin has not commenced construction of second building at 999 Third Street by the 8th anniversary of the effective date of the DA, the vesting of the entitlements for the development of 755 Lindaro Street will expire; and.
 - c) Annually, on request by the City, BioMarin will report to the City on the status of its development plans related to the DA.

The effective date for this use permit shall be the effective date of the Ordinance adopted for the Planned Development (PD) District Zoning.

5. The Master Use Permit approves 185 surface parking spaces on the Western Parcel (south of Second Street, west of Lindaro Street) and surface parking and a six story addition to the 788 Lincoln Avenue parking garage on the Eastern Parcel (south of Second Street, east of Lincoln Avenue) totaling 297 spaces (256 structured spaces and 41 surface). These parcels are restricted to parking use and landscaping only. As required by the subdivision map for the San Rafael Corporate Center (RM 2002-185, recorded September 2002), a restrictive covenant has been recorded on the subdivision map to encumber the Western and Eastern Parcels, ensuring that any conveyance of these parcels shall include a

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reservation or grant of easement to the benefit of the Central Parcel (office park described in condition 1 above) to provide parking required by this Use Permit and the San Rafael Corporate Center Environmental and Design Review Permit (ED97-24).

6. Use of the Western, Central and Northern Parcels are subject to the Covenant of Deed Restriction, recorded on August 10, 1989. This covenant restricts the uses that are permitted on these properties and requires continued maintenance and monitoring of on-site groundwater conditions. The Master Use Permit and the Covenant of Deed Restriction recognize that the Western and Central Parcels contain utilities and groundwater remediation improvements that are to remain on these sites in perpetuity.

A portion of the 999 3rd St site (northern parcel) is proposed to be subdivided and transferred to Whistlestop/EDEN Housing for development of a healthy aging campus and senior housing. The new lot to be transferred to Whistlestop/EDEN Housing is neither part of the Master Use Permit nor the Planned Development (PD) District. Furthermore, that entire northern parcel is currently undergoing soils remediation with the intention to have the deed restriction prohibiting residential or day care uses removed.

7. This Master Use Permit approve an 20-foot height bonus (General Plan Exhibit 10 height Bonus) for the two new buildings on the 118,099 square foot portion of 999 3rd street. The height bonus is granted based on the criteria in Exhibit 10 of the General Plan by providing the following benefits:
 - Donation of land for 67 units of Affordable housing
 - Privately owned public plaza (6,000 sq. ft.)
 - The provision Community facility (e.g. senior center, 18,000 sq. ft. or more in size)
 - Pedestrian crossing safety improvements at adjacent intersections
 - Donation of funds for development of bike lanes
8. This Master Use Permit reaffirms the previously granted height bonus for development of the for four of the existing office buildings: 750 Lindaro St, 770 Lindaro St, 790 Lindaro St and 791 Lincoln Ave) on the Central Parcel. These public benefits include:
 - a. Provision of permanent, public access, use and availability of the landscaped park area located on the south side of the office campus (south of and between 750 Lindaro St and 781 Lincoln Ave, bordered on the south by Mahon Creek). The park area shall be owned, in-fee, and permanently maintained by the property owner and/or the association of owners within the office park. A permanent public access easement has been recorded over the park area as part of the San Rafael Corporate Center subdivision map (RM 2002-185). The public use of this park area shall be subject to the following conditions:
 - b. Provision of a 2,500 sq. ft. conference/meeting space that is currently in 750 Lindaro St for use by public, subject to terms and regulations.

General Park Use

- a. For day-to-day general use, the park area shall be permanently accessible to the public, year round (365 days) and during the daylight hours (dawn to dusk).
- b. The property owners and/or the association of owners within the office park shall be responsible for daytime and evening security of the park area.
- c. Fencing and security gates shall be provided and permanently maintained at both the Lindaro St and Lincoln Ave entrances to the park area (south of 750 Lindaro St and 791 Lincoln Ave). The security gates shall be left open during the daylight hours and closed after dark. Signage shall be installed at these entrance gates identifying the park and hours for public access.

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Special Events and Activities

- a. Public use of the park area, and the 2,500 square foot conference/meeting room space (currently in 750 Lindaro St, but may be moved to any other building on campus). for special events and activities shall be scheduled by appointment, made through the property owner and/or association of owners within the office park. The property owner and/or association of owners shall designate a property manager to oversee the management and scheduling of special events and activities.
 - b. The facilities shall be available for community use at minimum, as follows:
 - i. 5:00 PM to 10:00 PM, Monday through Friday.
 - ii. 8:00 AM to 6:00 PM, Saturdays and Sundays.
 - c. First priority for use of the park area and the 2,500 square foot conference/meeting room space (currently provided in 750 Lindaro St, but may be moved to any other building on the campus) for special events shall be given to not-for-profit organizations, homeowners associations and neighborhood groups/associations within the City of San Rafael, schools within the City of San Rafael, and the City of San Rafael. No user fee shall be charged for the qualified users for special event use of the park area and/or the 2,500 square-foot conference/meeting room space, except deposit fees required for clean-up and security.
 - d. Use of the park area for special events and activities shall include public access to restrooms and water fountains located within 750 Lindaro St and 781 Lincoln Ave. If these facilities are not available, portable restrooms shall be provided in the park area at no cost to the user
 - e. Users of the park area and the 2,500 square foot conference/meeting room space (currently provided in 750 Lindaro, but may be moved to any other building on the campus) for special events and activities shall be subject to compliance with specific rules, regulations and guidelines, which are to be maintained by and provided to the user by the property owner and/or the association of owners of the office park development. These rules, regulations and guidelines have been approved by City staff and the Park and Recreation Commission. The approved rules, regulations and guidelines are based on the public facility use regulations currently implemented by the City. The final, approved rules, regulations and guidelines shall be maintained on file with this Use Permit.
 - f. The 2,500 sq ft conference meeting room space available for public use is currently located in 750 Lindaro St, but may be moved to any other building within the campus, as long as the size, functionality, and amenities are consistent with the current conference/meeting room and consistent with the rules identified above
9. This Use Permit approves a parking ratio of
- a. 3.0 parking spaces per 1,000 square feet of gross office building area,
 - b. 1.5 parking spaces per 1,000 square feet of gross laboratory/research and development building area, and
 - c. 1.0 parking spaces per 1,000 square feet of gross amenities and administrative building area development uses.
10. Within 60 days of the approval of the Use Permit, BioMarin will incorporate the following provisions into an enforceable deed restriction for the campus (Western, Central parcels, Eastern Parcel and Northern Parcels), except the portion transferred to Whistlestop/EDEN Housing):
- a. Changes in tenancy or use (change to multiple tenant occupancy, rather than single tenant), expansion of use(s), or expansion of floor area that create a parking demand that is more than five (5) percent greater than the number of required parking spaces approved under the current Planned Development (PD)

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District shall provide additional automobile parking, bicycle parking, and loading space as required by this Planned Development (PD) District and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand.

- b. Existing parking shall be maintained, but may be replaced in a reconstructed parking facility.
 - c. A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with Planned Development (PD) District).
11. As required by the previously executed Development Agreement (DA11-001), all surface parking lots within the greater San Rafael Corporate Center Campus shall be made available to the public from midnight to 6:00am and from 6:00pm to midnight on Monday through Friday and all hours on Saturday and Sundays. A permanent sign shall be posted and maintained at the vehicle entrances to all surface parking lots stating the public parking hours. The property owner shall not charge for public parking without the approval of the City. Approval of a charge for parking shall not be unreasonable withheld, provided that the proposed charges are not substantially and materially higher than the amounts charged by the City for City-owned parking facilities in the Downtown San Rafael.
12. As required by the current Development Agreement executed for this project (DA19-001), the following public benefits shall be provided and maintained (where applicable):
- a. Provide Whistlestop the portion of 999 Third St. for senior housing development through a land swap for the Lindaro corporation yard, which due to the delta in value of the two properties results in BioMarin's donation of \$1.2M to support the development of the healthy aging center and affordable senior housing.
 - b. Contribute, \$400,000 to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City. This may be payable in full at the first anniversary of the DA, or \$125,000 each year (commencing on the first anniversary of the DA) for 4 years.
 - c. Remediate a brownfield in the heart of downtown San Rafael, resulting in BioMarin out of pocket costs of over \$2M and total remediation costs of over \$16M.
 - d. Contribute \$500,000 to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City. This may be payable in full at the first anniversary of the DA, or \$125,000 each year (commencing on the first anniversary of the DA) for 4 years
 - e. Add Class II Bike lane along Lindaro from 3rd to Anderson with completion of Phase I
 - f. 6,000 sf Public Plaza "Front Porch" to follow the same rules as the park available for public use listed above
 - g. 3,500 sf Retail open to public during regular business hours
 - h. Improve intersection of 2nd & Lindaro with completion of Phase I.
 - i. Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is responsible for all liability related to the public's use of parcel, including, without limitation, all security, sanitation and janitorial.
13. BioMarin, or any successive owner or lessor of the site, shall continue and expand the implementation of a Transportation Demand Management (TDM) program that focuses on reducing vehicle trips and improving traffic flow.
- a. BioMarin, or any successive owner or lessor of the site, shall generate at least 15 percent fewer vehicle

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trips on a daily, AM peak hour, and PM peak hour basis (i.e., 1,584 daily, 173 AM peak hour, and 162 PM peak hour trips) as compared to those projected by the project applicant.

- b. BioMarin and any successive owner or lessor of the site shall monitor, on an annual basis, all traffic generated at the site, including single-occupant vehicles, carpools, pedestrian and bicycle trips, and public transit use, to gauge success and promote appropriate measures to retain vehicle trip rates at, or below, the current trip rates.
- c. BioMarin, or any successive owner or lessor of the site, shall submit an annual TDM monitoring report to the City of San Rafael for City review. (MM TRANS-1)

Environmental and Design Review Permit (ED18-087) Conditions of Approval

General and On-Going

Community Development Department, Planning Division

1. The building techniques, colors, materials, elevations and appearance of the project, as presented to the Planning Commission at their January 28, 2020 hearing, labeled **999 3rd Street BioMarin/Whistlestop/Eden Housing project**, and on file with the Community Development Department, Planning Division, shall be the same as required for issuance of all building and grading permits, subject to these conditions. Minor modifications or revisions to the project shall be subject to review and approval of the Community Development Department, Planning Division. Further modifications deemed not minor by the Community Development Director shall require review and approval by the original decision making body, the Planning Commission, and may require review and recommendation by the City's Design Review Board. (Applies to both components of project)
2. The approved colors for the project are on file with the Community Development Department, Planning Division. Any future modification to the color palette shall be subject to review and approval by the Planning Division and those modifications not deemed minor shall be referred to the Design Review Board for review and recommendation prior to approval by the Planning Division. (Applies to both components of project)
3. Within five (5) days of project approval, the project sponsor shall remit payment of the State Fish and Game fees in order for staff to file a Notice of Determination with the County Clerk within 5 days of project approval. The current fee amounts are \$3,343.25 payable to the State Fish and Game and \$50.00 payable to the Marin County Clerk and are subject to increase. (Applies to both components of project)
4. The project sponsor shall be responsible for implementing all mitigation measures presented in the Project's Final Environmental Impact Report (FEIR), on file with the Community Development Department, including any mitigation measures that may not have been incorporated into the Project conditions of approval. A deposit for Mitigation Monitoring shall be paid as required herein. (Applies to both components of project)
5. All required mitigation measures are identified in the Mitigation Monitoring and Reporting Program (MMRP) as recommend for adopted by separate Resolution and included as conditions of approval. (Applies to both components of project)
6. BioMarin/Whistlestop/Eden Housing agree to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the certification of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney

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fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities. (Applies to both components of project)

7. In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify BioMarin/Whistlestop/Eden Housing of any such claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. In the event BioMarin/Whistlestop/Eden Housing is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: 1) approve the counsel to so defend the City; 2) approve all significant decisions concerning the manner in which the defense is conducted; and 3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding, provided that if the City chooses to have counsel of its own to defend any claim, action or proceeding where BioMarin/Whistlestop/Eden Housing already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City. (Applies to both components of project)
8. As a condition of this application, BioMarin/Whistlestop/Eden Housing agrees to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City. (Applies to both components of project)
9. All site improvements, including but not limited to, site lighting, fencing, landscape islands and paving striping shall be maintained in good, undamaged condition at all times. Any damaged improvements shall be replaced in a timely manner. (Applies to both components of project)
10. All fencing shall be installed and maintained in a good, undamaged condition. Any damaged portions shall be replaced in a timely manner. (Applies to both components of project)
11. The Project site shall be kept free of litter and garbage. Any trash, junk or damaged materials that are accumulated on the site shall be removed and disposed of in a timely manner. BioMarin/Whistlestop/Eden Housing shall institute a program to provide regular cleanup of the parking lot, parking structure and the site facility, as well as all other areas immediately around the new parking structure and office building (Applies to both components of project)
12. The project and this Environmental and Design Review Permit (ED18-087) shall be subject to all terms and obligations and benefits of the Development Agreement (DA19-001), adopted by separate Resolution..
13. All new landscaping shall be irrigated with an automatic drip system and maintained in a healthy and thriving condition, free of weeds and debris, at all times. Any dying or dead landscaping shall be replaced in a timely fashion. (Applies to both components of project)
14. The project applicant shall maintain landscaping at project driveways to avoid sight distance conflicts. Shrubs shall not be higher than 30 inches and tree canopies shall be at least 7 feet from the ground. **(MM TRANS-7a)** (Applies to both components of project)

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15. The City of San Rafael shall prohibit parking at least 20 feet in advance and 20 feet behind each of the project's six driveways. **(MM TRANS-7b)** (Applies to both components of project)
16. This Environmental and Design Review Permit shall run with the land and shall remain valid regardless of any change of ownership of the project site, subject to these conditions, provided that a building/grading permit is issued and construction commenced or a time extension request is submitted to the City's Community Development Department, Planning Division, within **ten (10) years** of this approval, or until **2030, and subject to the terms and conditions of the Development Agreement**. Failure to obtain a building permit or grading permit and construction or grading activities commenced, or failure to obtain a time extension within the two-year period will result in the expiration of this Environmental and Design Review Permit.
17. This Environmental and Design Review Permit (ED18-087) shall run concurrently with the Master Use Permit (UP18-034), Small Subdivision (S18-001) and Sign Program Amendment (SP18-006) approvals. If either entitlement expires, this Environmental and Design Review Permit approving the Project, as depicted on Project plans, shall also expire and become invalid.

Prior to Issuance of Grading/Building Permits

Community Development Department, Planning Division

18. BioMarin/Whistlestop/Eden Housing shall be responsible for all costs associated with mitigation monitoring and shall remit an initial deposit in the amount of \$5,000.00 for mitigation monitoring and condition compliance. Staff shall bill time against this deposit amount during Project review and implementation of the Project and monitoring of Project conditions, to assure compliance with conditions and mitigation measures has been achieved. (Applies to both components of project)
19. Any outstanding Planning Division application processing fees, including payment of EIR consultant and contract planner, shall be paid prior to issuance of the first construction permit. (Applies to both components of project).
20. Final landscape and irrigation plans for the Project shall comply with the provisions of Marin Municipal Water District's (MMWD) most recent water conservation ordinance. Construction plans submitted for issuance of building/grading permit shall be pre-approved by MMWD and stamped as approved by MMWD or include a letter from MMWD approving the final landscape and irrigation plans. Modifications to the final landscape and irrigation plans, as required by MMWD, shall be subject to review and approval of the Community Development Department, Planning Division. (Applies to both components of project)
20. A Construction Management Plan (CMP) shall be prepared and submitted to the Planning Division for review and approval by the Planning Division and Department of Public Works. The CMP shall include (Applies to both components of project):
 - a. Projected schedule of work
 - b. Projected daily construction truck trips
 - c. Proposed construction truck route, including where trucks will stage if they arrive prior to the allowable hours of construction
 - d. Location of material staging areas
 - e. Include all limitations, conditions of approval or mitigation measures that are required during construction
 - f. Identify location of construction trailers and of construction worker parking
 - g. Dust control program

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- h. Statement that the project shall conform to the City's Noise Ordinance (Chapter 8.13 of the San Rafael Municipal Code) as modified by Condition #113 (ED18-034) above which limits the days and hours of all grading and construction activities,
 - i. Statement that no construction truck traffic shall encroach into any of the surrounding residential neighborhood streets at any time,
 - j. Statement that the existing roadway conditions on 2nd and 3rd Streets shall be memorialized on digital recording format prior to the start of construction and that the project sponsor shall be required to repair any roadway damage created by the additional construction truck traffic.
 - k. Identify the name, phone number and contact information for an on-site construction manager who is responsible to implement the CMP
 - l. In the event that the CMP is conflicting with any conditions imposed by the grading permit for the project, the more restrictive language or conditions shall prevail.
 - m. It is the responsibility of the owner/applicant to ensure that the final and approved CMP be included as a requirement in the construction contract with contractors and subcontractors, bid documents and distributed to contractors (Applies to both components of project)
 - n. Truck routes shall be reviewed and approved by the City Department of Public Works. Hauling shall be limited to one truck in and one truck out per 15 minutes during the AM and PM peak unless otherwise permitted by the Department of Public Works.
21. All mechanical equipment (i.e., air conditioning units, meters and transformers) and appurtenances not entirely enclosed within the structures (on side of building or roof) shall be screened from public view. The method used to accomplish the screening shall be indicated on the building plans and approved by the Planning Division. (Applies to both components of project)
22. The project shall mitigate potential air quality impacts associated with construction and grading activities by preparing and submitting a Dust Control Plan to the City of San Rafael Community Development Department for review and approval, prior to issuance of a grading permit. **(MM AIR-1)** (Applies to both components of project)
23. The project shall reduce the potential exposure by the public to hazardous materials such as asbestos or lead during proposed demolition activities, by preparing a hazardous material remediation plan. Submit the plan to the City of San Rafael Community Development Department for review and approval prior to issuance of a demolition permit. **(MM HAZ-1)** (Applies to both components of project)
24. The project shall mitigate operational noise by incorporating sound-rated OITC24 windows along and near the 2nd Street façade and standard double-paned windows at all other facades into the construction drawings. Further, all habitable rooms with exterior noise exposures greater than 60 Ldn will require alternative ventilation per Title 24. A post-construction Acoustical Analysis, by a qualified Acoustic Engineer, shall confirm that the project complies with maximum interior noise exposure limits of 45 Ldn and shall be submitted to the Community Development Department. **(MM NOISE-1)** (Whistlestop component of the project)
25. Prior to issuance of a building permit, or any construction permit for development of the Whistlestop component of the project on the 15,000 sq ft portion of the site, the applicant/property owner shall submit proof of rescission of the deed restriction currently recorded on the Whistlestop portion of the property by the Department of Toxic and Substance Control (DTSC) which restricts residential uses on the 999 3rd St site. Once it has been demonstrated that the deed restriction has been rescinded, construction permits may be issued (subject to other conditions and requirements for issuance of a permit). (Applies to Whistlestop component of project)

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26. The project has requested and received a density bonus in excess of the 35% maximum allowed by the State, by providing 100% of the units as affordable to seniors at low and very low income levels. Prior to issuance of a building permit, the property owner shall record a BMR agreement on the property, deed-restricting the income level for occupancy of the affordable units. (Applies to Whistlestop component of the project)
27. Prior to the approval of building permits, the applicant shall provide the City of San Rafael with a letter from the Department of Toxic Substances Control (DTSC) indicating that the infiltration proposed by the post-construction stormwater management plans would not lead to the spread of existing groundwater contamination or interference with the effectiveness of the groundwater extraction and treatment system located adjacent to the south and southeast of the project site. If DTSC indicates that restrictions to infiltration are necessary, then the post-construction stormwater management plan shall be modified, as appropriate, to limit infiltration. For example, the pervious pavements and bioretention facilities could be underlain by a low permeability liner that would limit infiltration to the subsurface. Any changes to the post-construction stormwater management plan must be approved by DTSC and the City Engineer prior to approval of building permits. **(MM HYDRO-1)** (Applies to both components of project)
28. The project applicant shall incorporate the recommendations of the preliminary hydrology study into the project design, and shall complete a final hydrology study based on the final design of the proposed project. The final hydrology study shall verify that peak flows to individual points of drainage around the project site would be limited to at or below existing levels under the final project design, or shall provide recommendations to achieve these limits. The project applicants shall implement all of the recommendation of the final hydrology study. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the final hydrology and hydraulic study have been incorporated into the project grading plans and building plans. **(MM HYDRO-2)** (Applies to both components of project)
29. Project construction shall abide by the City of San Rafael's provisions regarding transportation and parking management during construction activities. In addition, the project applicants shall develop a demolition construction traffic management plan defining hours of operation, specified truck routes, and construction parking provisions. This plan shall be prepared by the applicants and approved prior to issuance of a building permit by the City of San Rafael Department of Public Works. The project applicants shall ensure that any parking losses associated with construction vehicles do not affect parking availability on downtown streets. **(MM TRANS-5)** (Applies to both components of project)
30. SRMC 14.16.030.I.2 prescribes the process and standards and also allows the Community Development Director to determine the number of affordable employees based on comparable employee densities. Therefore, based on the employment densities proposed in these new buildings, the standard used to determine the number of affordable units is $0.01625/1,000$ sq ft of gross floor area. For this particular project, that would result in the requirement for 3.36 affordable units to be provided by the 207,000 sq ft of new building ($207 * .01625 = 3.36$ affordable units). The current in-lieu fee for one affordable unit is \$343,969.47, therefore the in-lieu fee amount that would be required is \$1,155,737.42. This fee shall be paid prior to the issuance of the building permit for the 1st BioMarin building. (BioMarin component of project)
 - a. The Development Agreement (DA) approved for this project vests the affordable housing in lieu fee amount at the current rate of \$343,969.47 for the 10-year term of the DA.
31. All submitted building permit plan sets shall include a plan sheet incorporating these conditions of approval. (Applies to both components of the project)

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32. If reclaimed water for landscaping purposes is made available, BioMarin/Whistlestop/Eden Housing shall upgrade its water system and install any and all required facilities to use reclaimed water for all site landscaping purposes. (Applies to both components of the project)
33. The project applicant shall improve the pavement sections of the roadways peripheral to the project site to a condition acceptable to the City Engineer. The applicants shall complete a “pre-construction” study, followed by a “post-construction” survey to determine what road improvements would be the responsibility of the applicants. These studies shall be submitted to the City Engineer for approval. **(MM TRANS-6)** (Applies to both components of the project)

Public Works Department

34. Frontage improvements shall include: street lighting, conduit for City facilities, accessible curb ramp pairs, drainage facilities, street trees, sidewalk, curb and gutter.
35. A separate photometric for street lighting shall be required in order to determine the precise locations for street lighting.
36. All improvements shall be coordinated with City projects. For example, the City is anticipating improvements on Third St. and circulation modification downtown. Due to the timeline for these projects, infrastructure installation may need to be installed earlier than the construction of the BioMarin portion of the development, unless an alternative is agreed upon by the City.
37. The project applicant shall implement all of the recommendations of the design-level geotechnical investigation, including design criteria, plan review, and construction period monitoring recommendations. Prior to the issuance of a grading permit and building permit, the applicants shall demonstrate to the satisfaction of the City Engineer that the recommendations of the design-level geotechnical investigation have been incorporated into the project grading plans and building plans. **(MM GEO-1/GEO-2)** (Applies to both components of project)
38. The site is a former Manufactured Gas Plant, which had undergone environmental remediation activities. If the generator for the previous contamination will require access to certain areas should the need arise. It is our understanding that the applicant has assessed this aspect and designed accordingly. (Applies to both components of project)
39. Prior to issuance of a building permit, the applicant shall submit improvement plans and obtain an encroachment permit is required for any work within the Right-of-Way, from the Department of Public Works located at 111 Morphew St., to design and construction of the following:
 - a. Curb ramp improvements at all corners of the following intersections 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. **(MM TRANS-8)** (Applies to both components of the project).
 - b. Curb ramps shall be directional as determined by the Department of Public Works.
 - c. Only the frontage improvements along the frontage for each component of the project shall be required during their phase of development
 - d. Crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. **(MM TRANS-9)** (BioMarin component of project)

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- e. Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. (MM TRANS-10) (Whistlestop component of project)
 - f. Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/EDEN Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (MM TRANS-11) (Whistlestop component of project)
 - g. The project applicant shall install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (MM TRANS-12) (Applies to both components of the project).
 - h. Please note that Brooks, Lindaro and Second Streets are currently moratorium streets and full width resurfacing is required for street cuts. Non-moratorium streets shall require resurfacing for approximately 50% of the width along the frontage, depending on the location of utility work, and intersection and crosswalk improvements. The extents shall be reviewed at the time of encroachment permit.
 - i. Restriping of public streets shall be of thermoplastic, as approved by the Department of Public Works. Signage and striping shall be reviewed and approved by the City Traffic Engineer.
40. Third party peer review of geotechnical and engineering reports and inspection throughout construction shall be required, paid for by the project sponsor and contracted by the City. A proposed project schedule for the duration of work is required prior to submittal for a grading or building permit, so that an estimate may be prepared for the required deposit amount. (Applies to both components of the project)
41. A construction vehicle impact fee shall be required at the time of building permit issuance; which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt. (Applies to both components of the project)
42. Off-site improvements shall be bonded and included upon an improvement agreement or completed prior to a parcel map. Provide an engineer's estimate for the improvements for review and incorporation to the agreement. (Applies to both components of the project)
- a. All improvements along Brooks St and the Whistlestop frontage shall be completed prior to occupancy, with a subdivision improvement agreement. (Applies to Whistlestop component of the project)
 - b. All other subdivision improvements along the remainder of the BioMarin frontage shall be installed prior to occupancy of the first phase of the buildings, if not earlier. (Applies to BioMarin component of the project)
 - c. Bonds shall be required for the complete improvements, prior to recordation of a map or occupancy of a portion of the project. (Applies to both components of the project)
43. The traffic mitigation fee is estimated at 203 AM and 191 PM trips based on the transportation impact study (Table 20). This applies to the BioMarin Facility. Separately, the trip generation estimated for the Whistlestop housing may be considered exempt from the traffic mitigation fee on the condition that it is restricted to affordable housing.

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- a. BioMarin component results 394 total peak hour trips at \$4,246/trip, for a mitigation fee of \$1,672,924 (203 am + 191pm trips). The Development Agreement (DA) approved for this project vests the traffic mitigation fee amount at the current rate of \$4,246/trip for the 10-year term of the DA.
 - b. Whistlestop Component results in 78 total peak hour trips at \$4,246/trip for a mitigation fee of \$331,188. However, the Whistlestop component of the project is exempt from the payment of traffic mitigation fees, based on City Council Resolution No's 11668 and 13364, which exempts affordable housing projects from payment of traffic mitigation fees
44. All plans, reports, monitoring, inspection and testing for the proposed project will be reviewed by an independent Geotechnical Engineer and/or Engineering Geologist retained by the City, at the expense of the project sponsor. This third-party consultant will review all plans, reports, monitoring, inspection and testing data prior to appropriate approvals and/or certifications. A letter report summarizing findings and recommendations shall be submitted by the geotechnical engineer to the City Engineer for review and approval, as well as incorporation into grading plans. (Applies to both components of the project)
 45. Final grading and foundation techniques shall be developed by a certified geotechnical engineer or engineering geologist and reviewed and approved by the City. (Applies to both components of the project)
 46. In order to limit residual migration of contaminants, alternative stormwater treatment may be required by the Department of Public Works, such as filtration planters (non-infiltrating), or mechanical filtration combined with retention.
 47. A final drainage plan shall be prepared and submitted for review and approval with the final improvement plans. The plan shall be prepared by a registered civil or hydrologic engineer and shall include hydrologic and hydraulic calculations as well as details of the proposed improvement and stormwater treatment facilities. The final drainage plan shall be subject to review and approval by the City Engineer. The final drainage plan shall address the following:
 - a) The plans shall show the existing drainage facilities
 - b) Runoff shall not be increased, leaving the project boundary
 - c) Filtration shall be required for particles equal to or larger than 5mm, so they do not enter into the City's storm drainage system
 - d) Placards (medallions) shall be installed on all new drainage inlets to prohibit dumping of pollutants. These are available from the City or MCSTOPPP
 - e) A stormwater facilities maintenance agreement shall be required
 - f) How the project's drainage system shall be maintained, whether separate for each site or together along with the other development improvements.
 - g) The drainage plan shall be developed in consideration with the site history of contamination.

Provide the final hydrologic analysis of the detailed drainage system and conformance with the mitigation measures required by the EIR for the 100-year event with regard to the City's infrastructure receiving flow, as well as any potential impact to the flood zone for FEMA requirements. (Applies to both components of the project)

48. Utility improvements shall be required as per the individual utilities. In general, undergrounding, housing utilities in vaults, and repair of City infrastructure shall be required. This shall be reviewed and approved by the Department of Public Works with the detailed utility and subdivision improvement plans and more precisely with the encroachment permit.

Community Development Department, Building Division

Exhibit 2g

49. The design and construction of all site alterations shall comply with the 2019 California Building Code (CBC), 2019 California Plumbing Code (CPC), 2019 California Electrical Code (CEC), 2019 California Mechanical Code CCMC), 2019 California Fire Code (CFC), 2019 California Energy Code, 2019 California Green Building Standards Code and City of San Rafael Ordinances and Amendments
50. A building permit is required for the proposed work. Applications shall be accompanied by four (4) complete sets of construction drawings to include:
 - a. Architectural plans
 - b. Structural plans
 - c. Electrical plans
 - d. Plumbing plans
 - e. Mechanical plans
 - f. Site/civil plans (clearly identifying grade plane and height of the building)
 - g. Structural Calculations
 - h. Truss Calculations
 - i. Soils reports
 - j. Green Building documentation
 - k. Title-24 energy documentation
51. The occupancy classification, construction type and square footage of each building shall be specified on the plans. In mixed occupancies, each portion of the building shall be individually classified.
52. Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.
53. The maximum area of unprotected and protected openings permitted in the exterior wall in any story of a building shall not exceed the percentages specified in CBC Table 705.8 "Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree of Opening Protection." To calculate the maximum area of exterior wall openings you must provide the building setback distance from the property lines and then justify the percentage of proposed wall openings and include whether the opening is unprotected or protected.
54. Buildings located 4 or more stories above grade plane, one stairwell must extend to the roof, unless the roof slope exceeds an angle of 4 vertical to 12 horizontal CBC 1011.12. (Applies to both components of project)
55. Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20. (Applies to both components of project)
56. School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit. (Applies to both components of project)
57. Regarding any grading or site remediation, soils export, import and placement; provide a detailed soils report prepared by a qualified engineer to address these procedures. The report should address the import and placement and compaction of soils at future building pad locations and should be based on an assumed foundation design. This information should be provided to Building Division and Department of Public Works for review and comments prior to any such activities taking place. (Applies to both components of project)

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58. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted. (Applies to both components of project)
59. Based on the distance to the property line (and/or adjacent buildings on the same parcel), the building elements shall have a fire resistive rating not less than that specified in CBC Table 601 and exterior walls shall have a fire resistive rating not less than that specified in CBC Table 602. (Applies to both components of project)
60. Cornices, eaves overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of CBC 705.2. Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection: (Applies to both components of project)
 - a. A point one-third the distance from the exterior face of the wall to the lot line where protected openings or a combination of protected openings and unprotected openings are required in the exterior wall.
 - b. A point one-half the distance from the exterior face of the wall to the lot line where all openings in the exterior wall are permitted to be unprotected or the building is equipped throughout with an automatic sprinkler system.
 - c. More than 12 inches into areas where openings are prohibited.
61. Ventilation area required, the minimum openable area to the outdoors is 4 percent of the floor area being ventilated CBC 1203.5.1 or mechanical ventilation in accordance with the California Mechanical Code. (Applies to both components of project)
62. Natural light, the minimum net glazed area shall not be less than 8 percent of the floor area of the room served CBC 1205.2 or shall provide artificial light in accordance with CBC 1205.3. (Applies to both components of project)
63. Walls separating purposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction. (Applies to both components of project)
64. All site signage as well as wall signs require a separate permit and application (excluding address numbering). (Applies to both components of project)
65. The Whistlestop/EDEN Housing building must apply for a new address for this building from the Building Division.
66. In the parking garage, mechanical ventilation will be required capable of exhausting a minimum of .75 cubic feet per minute per square foot of gross floor area CMC Table 4-4. (Applies to Whistlestop component of project)
67. In the parking structure, in areas where motor vehicles are stored, floor surfaces shall be of noncombustible, nonabsorbent materials. Floors shall drain to an approved oil separator or trap discharging to sewers in accordance with the Plumbing Code and SWIPP. (Applies to Whistlestop component of project)
68. Minimum elevator car size (interior dimension) 60" wide by 30" deep with an entrance opening of at least 60" or a car size of 42" wide by 48" deep with an entrance opening of 36" or a car size of 60" wide by 36" deep with an entrance opening of at least 36". (Applies to both components of project)
69. All buildings with one or more elevators shall be provided with not less than one medical emergency service elevator. The medical emergency service elevator shall accommodate the loading and transport of an ambulance gurney or stretcher. The elevator car size shall have a minimum clear distance between walls and

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door excluding return panels not less than 80 inches by 54 inches and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door. (Applies to both components of project)

70. In the service areas, mechanical ventilation will be required capable of exhausting a minimum of 1.5 cubic feet per minute per square foot of gross floor area. Connecting offices, waiting rooms, restrooms, and retail areas shall be supplied with conditioned air under positive pressure. (Applies to both components of project)
71. The proposed facility shall be designed to provide access to the physically disabled. For existing buildings and facilities when alterations, structural repairs or additions are made, accessibility improvements for persons with disabilities shall be required unless CASP report states compliant. Improvements shall be made, but are not limited to, the following accessible features: (Applies to both components of project)
 - a. Path of travel from public transportation point of arrival
 - b. Routes of travel between buildings
 - c. Accessible parking
 - d. Ramps
 - e. Primary entrances
 - f. Sanitary facilities (restrooms)
 - g. Drinking fountains & Public telephones (when provided)
 - h. Accessible features per specific occupancy requirements
 - g. Accessible special features, i.e., ATM's point of sale machines, etc.
72. The site development of items such as common sidewalks, parking areas, stairs, ramps, common facilities, etc. are subject to compliance with the accessibility. Pedestrian access provisions should provide a minimum 48" wide unobstructed paved surface to and along all accessible routes. Items such as signs, meter pedestals, light standards, trash receptacles, etc., shall not encroach on this 4' minimum width. Also, note that sidewalk slopes and side slopes shall not exceed published minimums. The civil, grading and landscape plans shall address these requirements to the extent possible. (Applies to both components of project)
73. The parking garage ceiling height shall have a minimum vertical clearance of 8' 2" where required for accessible parking. (Applies to Whistlestop component of project)
74. Multistory apartment or condominium on the ground floor in buildings with no elevator at least 10 percent but no less than one of the multistory dwellings in apartment buildings with three or more and condos with four or more dwellings shall comply with the following: (Applies to Whistlestop component of project)
 - a. The primary entry to the dwelling unit shall be on an accessible route unless exempted by site impracticality tests in CBC Section 1150A.
 - b. At least one powder room or bathroom shall be located on the primary entry level, served by an accessible route.
 - c. All rooms or spaces located on the primary entry level shall be served by an accessible route. Rooms and spaces located on the primary entry level and subject to this chapter may include but are not limited to kitchens, powder rooms, bathrooms, living rooms, bedrooms or hallways.
75. Multifamily dwelling and apartment accessible parking spaces shall be provided at a minimum rate of 2 percent of the covered multifamily dwelling units. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2 percent. (Applies to Whistlestop component of project)
76. Public accommodation disabled parking spaces must be provided according the following table and must be uniformly distributed throughout the site. (Applies to both components of project)

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Total Number of Parking Spaces Provided	Minimum Required Number of H/C Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	Two percent of total
1,001 and over	Twenty, plus one for each 100 or fraction thereof over 1,001

77. At least one disabled parking space must be van accessible; 9 feet wide parking space and 8 feet wide off-load area. Additionally, one in every eight required handicap spaces must be van accessible. (Applies to both components of project)

San Rafael Sanitation District

78. The applicant shall submit complete civil engineering plans, including plan and profile of the sewer lateral connections to the existing sewer system. The drawings will also need to show any existing sewer laterals which are being abandoned. The drawings shall comply with the most recent version of San Rafael Sanitation District Standards. (Applies to both components of project)

79. The applicant shall submit detailed flow calculations showing normal and peak flow rates. Based on the results of the flow calculations, the project sponsor may be required to replace or up-size sewer lines in the vicinity of the project to accommodate the increased flows. (Applies to both components of project)

80. The sewer lateral connection for BioMarin shall be made to the 27” VCP mainline on 2nd not the 12” VCP on 3rd Street. The Whistlestop component of the project shall be made to the 12” VCP on 3rd Street (Applies to both components of project)

81. The Sewer Connection fees will be required prior to issuance of the Building Permit. Applicant must submit civil/utility plans indicating all the proposed new fixtures so the District staff can calculate the final amount. (Applies to both components of project)

82. In order for the applicant to request credit for the existing fixtures on the buildings, the applicant must submit civil/utility plans including a full inventory of the existing fixtures (if necessary, accompanied by photos) to request any adjustment of these fees. (Applies to both components of project)

San Rafael Fire Department, Fire Prevention Bureau

83. The sliding gates at the 3rd Street driveway and the southern Brooks Street driveway shall be approved by the City of San Rafael Fire and Police Departments and shall enable access by emergency service providers. **(MM TRANS-13)** (Applies to both components of project)

84. The design and construction of all site alterations shall comply with the 2016 California Fire Code and City of San Rafael Ordinances and Amendments. (Applies to both components of project)

85. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems: (Applies to both components of project)

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- a. Fire Sprinkler plans (Deferred Submittal to the Fire Prevention Bureau).
 - b. Fire Standpipe plans (Deferred Submittal to the Fire Prevention Bureau).
 - c. Fire Underground plans (Deferred Submittal to the Fire Prevention Bureau).
 - d. Fire Alarm plans (Deferred Submittal to the Fire Prevention Bureau).
 - e. Kitchen Hood Automatic Fire-Extinguishing System plans (Deferred Submittal to the Fire Prevention Bureau) if applicable. (Applies to both components of project)
86. A fire apparatus access plan shall be prepared for this project. Fire apparatus plan shall show the location the following: (Applies to both components of project)
- a. Designated fire apparatus access roads.
 - b. Red curbs and no parking fire lane signs.
 - c. Fire hydrants.
 - d. Fire Department Connections (FDC).
 - e. Double detector check valves.
 - f. Street address signs.
 - g. Recessed Knox Boxes
 - h. Fire Alarm annunciator panels.
 - i. NFPA 704 placards.
 - j. Provide a note on the plan, as follows: The designated fire apparatus access roads and fire hydrants shall be installed and approved by the Fire Prevention Bureau prior construction of the building. (Applies to both components of project)
87. Plans of the high-piled combustible storage area, drawn to scale, shall be submitted with the Fire Sprinkler Plans to the Fire Prevention Bureau. The high piled plans shall include at least the following:
- a. Floor plan of the building showing locations and dimensions of high-piled storage areas.
 - b. Usable height for each storage area.
 - c. Number of tiers within each rack, if applicable.
 - d. Commodity clearance between top of storage and the sprinkler deflector for each storage arrangement.
 - e. Aisle dimensions between each storage array.
 - f. Maximum pile volume for each storage array.
 - g. Location and classification of commodities in accordance with CFC Section 2303.
 - h. Location of commodities which are banded or encapsulated.
 - i. Location of all required fire department access doors.
 - j. Type of fire suppression and fire detection systems.
 - k. Location of valves controlling the water supply of ceiling and in-rack sprinklers.
 - l. Type, location and specifications of smoke removal and curtain board systems.
 - m. Additional information regarding required design features, commodities, storage arrangement and fire protection features within the high-piled storage area shall be provided at the time of permit, when required by the fire code official. (Applies to both components of project)
88. Knox Key Boxes are required at the primary point of first response to the building. (Applies to both components of project).
89. A Knox Box is required at the primary points of first response to the building. A recessed mounted Knox Box # 3275 Series is required for this project; the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72" to 78" above finish grade; show the location on the plans. (Applies to both components of project)

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90. On site fire hydrants could be required. (Applies to both components of project)
91. When a building is fully sprinklered all portions of the exterior building perimeter must be located within 250-feet of an approved fire apparatus access road.
 - a. The minimum width of the fire apparatus access road is 20-feet.
 - b. The minimum inside turning radius for a fire apparatus access road is 28 feet.
 - c. The fire apparatus access road serving this building is more than 150-feet in length; provide an approved turn-around. Contact the Fire Prevention Bureau for specific details. (Applies to both components of project)
92. If the building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building.
 - a. The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.
 - a. The minimum unobstructed width for an aerial fire apparatus access road is 26-feet.
 - b. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building. (Applies to both components of project)
93. Fire lanes must be designated; painted red with contrasting white lettering stating “No Parking Fire Lane” A sign shall be posted in accordance with the CFC Section 503.3. (Applies to both components of project)
94. Building address numbers and directories must be to Fire Department standards. (Applies to both components of project)
95. Hazardous Materials Placard shall be installed in accordance with NFPA 704. (Applies to both components of project)
96. Provide a Hazardous Materials Management Plan to be submitted to Marin County Department of Public Works, CUPA (Applies to both components of project)
97. Contact the Marin Municipal Water District (MMWD) to make arrangements for the water supply serving the fire protection system. (Applies to both components of project)

Marin Municipal Water District

98. District records indicate that the property’s current annual water entitlement is insufficient to meet the water demand for the project and the purchase of additional water entitlement will be required. Additional water entitlement will be available upon request and fulfillment of the following requirements:
 - a. Complete a High Pressure Water Service Application
 - b. Submit a copy of the building permit.
 - c. Pay appropriate fees and charges.
 - d. Complete the structures foundation within 120 days of the date of application
 - e. Comply with the District’s rules and regulations in effect at the time service is requested.
 - f. Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. This may include verification of specific indoor fixture efficiency compliance. If you are pursuing a landscaping project subject to review by your local planning department and / or subject to a city permit, please contact the district water conservation department at 415-945-1497 or email to plancheck@marinwater.org. More information about district water conservation requirements can be found on line at www.marinwater.org. (Applies to both components of project)

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99. Comply with the backflow prevention requirements, if upon the Districts review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1558. (Applies to both components of project)
100. Use of recycled water is required, where available, for all approved uses, including irrigation and the flushing of toilets and urinals. Questions regarding the use of recycled water should be directed to Dewey Sorensen at (415) 945-1558. (Applies to both components of project)
101. Comply with Ordinance No. 429 requiring the installation of gray water recycling systems when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service. (Applies to both components of project)

Pacific Gas & Electric

102. Electric and gas service to the project site will be provided in accordance with the applicable extension rules, which are available on PG&E's website at <http://www.pge.com/myhome/customerservice/other/newconstruction> or contact (800) PGE-5000. It is highly recommended that PG&E be contacted as soon as possible so that there is adequate time to engineer all required improvements and to schedule any site work. (Applies to both components of project)
103. The cost of relocating any existing PG&E facilities or conversion of existing overhead facilities to underground shall be the sole responsibility of the applicant or property owner. (Applies to both components of project)

During Construction

Department of Public Works – Land Development

104. All mass grading shall be limited to April 15 through October 15, unless otherwise approved in writing by the Department of Public Works. A grading permit shall be obtained for all grading and site improvement work. Trucking trips during peak hours may be limited. (Applies to both components of project)
105. All public streets and sidewalks and on-site streets which are privately owned that are impacted by the grading and construction operation for the Project shall be kept clean and free of debris at all times. The general contractor shall sweep the nearest street and sidewalk adjacent to the site on a daily basis unless conditions require greater frequency of sweeping. (Applies to both components of project)
106. Prior to the start excavation or construction, the general contractor shall call Underground Service Alert (USA) at (800) 227-2600 to have the location of any existing underground facilities marked in the field. (Applies to both components of project)

Community Development Department, Planning Division

107. Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for Archeology contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. If the deposit is found to be significant (i.e., eligible for listing in the California Register of Historical Resources), the applicant shall be responsible for funding and implementing appropriate mitigation measures. Mitigation measures may include recordation of the archaeological deposit, data recovery and analysis, and public outreach regarding the scientific and cultural importance of the discovery. Upon completion of the selected mitigations, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review, and the

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final report shall be submitted to the Northwest Information Center at Sonoma State University. Significant archaeological materials shall be submitted to an appropriate curation facility and used for public interpretive displays, as appropriate and in coordination with a local Native American tribal representative.

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

“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.” (MM CULT-1/CULT-2)
(Applies to both components of project)

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

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

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

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

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prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.” (MM GEO-3): (Applies to both components of project)

109. During project construction, the contractor shall implement a dust control program that includes the following measures recommended by the BAAQMD (MM AIR-1) (Applies to both components of project)
 - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
 - e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. A publicly visible sign shall be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District (BAAQMD) phone number shall also be visible to ensure compliance with applicable regulations.
110. The project shall implement the City of San Rafael Noise Ordinance construction noise requirements to minimize noise impacts during construction. Construction noise related to demolition and grading work done within 15 feet of the west property line could exceed the Ordinance requirements. Neighbors shall be informed before any construction activities and any input they have on construction scheduling shall be incorporated to the extent feasible, and the work should be conducted as quickly as possible to minimize exposure time. (MM NOISE-2) (Applies to both components of project)
111. The BioMarin project applicant shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications: After the Whistlestop/EDEN Housing project is completed and housing residents, require that the construction contractor for BioMarin Building A and BioMarin Building B not operate more than one piece of noise-generating equipment (listed in Table 4.10-10) within 40 feet of the Whistlestop/Eden Housing project. This would ensure that the 90 dBA Lmax is not exceeded at the Whistlestop/Eden Housing project. (MM NOISE-1a) (Applies to BioMarin component of project)
112. The BioMarin and Whistlestop/Eden Housing project applicants shall require use of noise-reducing measures that may include the following and that shall be described and included in applicable contract specifications (Applies to both components of project):
 - a. Equip internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and are appropriate for the equipment.
 - b. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from noise-sensitive land uses. Muffle the stationary equipment, and enclose within temporary sheds or surround by insulation barriers, if feasible.
 - c. To the extent feasible, establish construction staging areas at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors during all project construction.
 - d. Use "quiet" air compressors and other stationary noise sources where technology exists.
 - e. Construct or use temporary noise barriers, as needed, to shield on-site construction and demolition noise from noise-sensitive areas to the extent feasible. To be most effective, the barrier should be placed as close as possible to the noise source or the sensitive receptor. Examples of barriers include portable acoustically lined enclosure/housing for specific equipment (e.g., jackhammer and pneumatic-air tools,

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which generate the loudest noise), temporary noise barriers (e.g., solid plywood fences or portable panel systems, minimum 8 feet in height), and/or acoustical blankets, as feasible.

- f. Control noise levels from workers' amplified music so that sounds are not audible to sensitive receptors in the vicinity.
- g. Prohibit all unnecessary idling of internal combustion engines.
(MM NOISE-1b)

113. The BioMarin and Whistlestop/Eden Housing construction contractors shall develop a set of procedures that are described and included in applicable contract specifications for tracking and responding to complaints received pertaining to construction vibration and noise, and shall implement the procedures during construction. At a minimum, the procedures shall include (Applies to both components of project):
- a. Designation of an on-site construction complaint and enforcement manager for the project.
 - b. Protocols specific to on-site and off-site receptors for receiving, responding to, and tracking received complaints. The construction complaint and enforcement manager shall promptly respond to any complaints and work cooperatively with affected receptors to ensure that the source of the noise- or vibration-generating activity is discontinued or determine an acceptable schedule to resume the activity when the receptor is not present in the residence.
 - c. Maintenance of a complaint log that records what complaints were received and how these complaints were addressed.
(MM NOISE-1c)

114. Nearby residents shall be informed by posting informational notices on the fence line of the construction site. The notice shall state the date of planned construction activity and include the contact information of the construction complaint and disturbance coordinator identified in Mitigation Measure NOISE-1b. **(MM NOISE-1d)** (Applies to both components of project)

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

Prior to Occupancy

Community Development Department, Planning Division

116. Final inspection of the project by the Community Development Department, Planning Division, is required. The applicant shall contact the Planning Division to request a final inspection upon completion of the project. The final inspection shall require a minimum of 48-hour advance notice. (Applies to both components of project)
117. All landscaping and irrigation shall be installed prior to occupancy. In the alternative, the applicant or property owner shall post a bond with the City in the amount of the estimated landscaping/irrigation installed cost. In the event that a bond is posted, all areas proposed for landscaping shall be covered with bark or a substitute material approved by the Planning Division prior to occupancy. Deferred landscaping through a bond shall not exceed 3 months past occupancy. (Applies to both components of project)

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118. The landscape architect for the project shall submit a letter to the Planning Division, confirming the landscaping has been installed in compliance with the approved project plans and the irrigation is fully functioning. (Applies to both components of project)
119. All ground- and rooftop-mounted mechanical equipment shall be fully screened from public view. (Applies to both components of project)
120. All trash enclosures shall be screened by a combination of fencing with privacy slats and landscaping. (Applies to both components of project)

Public Works Department

121. The project shall install signs at the driveway exit to alert drivers to look for pedestrians on the sidewalk. (Applies to both components of project)
122. Regulatory agency approval shall be required for the mitigations to be implemented for the various occupancy types of each of the buildings, prior to occupancy. (Applies to both components of project)
123. Prior to occupancy, the project applicant shall install all required (Applies to both components of project)
 - a) Curb ramp improvements at all corners of the following intersections: 3rd Street and Lindaro Street, 3rd Street and Brooks Street, 2nd Street and Brooks Street, and 2nd Street and Lindaro Street. (**MM TRANS-8**) (Applies to both components of the project).
 - b) Crosswalk across the western leg of the 3rd Street and Lindaro Street intersection. These improvements shall include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. They may include revisions to or removal of the driveway on the north side of the intersection. The design of these improvements would be approved by the City Engineer. (**MM TRANS-9**) (BioMarin component of project)
 - c) Pedestrian Hybrid Beacon, or other pedestrian crossing enhancements as deemed appropriate by the City of San Rafael Department of Public Works, at the 3rd Street and Brooks Street intersection. These improvements could include, but not be limited to, curb and roadway infrastructure work, as well as traffic and pedestrian signal modifications. (**MM TRANS-10**) (Whistlestop component of project)
 - d) Vehicle travel on Brooks Street at 2nd Street shall be limited to one-way northbound/outbound only. Brooks Street at 3rd Street shall allow both inbound and outbound traffic to the driveway just south of the Whistlestop/Eden Housing project. The project applicants shall modify the project, as needed, to enable sufficient sight distance between westbound motorists on 3rd Street and northbound motorists, stopped behind a future marked crosswalk, on Brooks Street. Modifications may include, but not be limited to, building design changes, roadway curb extensions, or revisions to proposed hardscaping and/or landscaping. Any changes shall be approved by the City of San Rafael Department of Public Works. (**MM TRANS-11**) (Whistlestop component of project)
 - e) Install systems that provide vehicle-activated audible and visual warnings for vehicles egressing the driveways on Brooks Street. (**MM TRANS-12**) (Applies to both components of the project).

After Occupancy

Community Development Department, Planning Division

124. Following the issuance of a Certificate of Occupancy, all new exterior lighting shall be subject to a 90-day lighting level review period by the City to ensure that all lighting sources provide safety for the building occupants while not creating a glare or hazard on adjacent streets or be annoying to adjacent residents. During

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this lighting review period, the City may require adjustments in the direction or intensity of the lighting, if necessary. All exterior lighting shall include a master photoelectric cell with an automatic timer system, where the intensity of illumination shall be turned off during daylight. (Applies to both components of project)

Small Subdivision (S18-001) Conditions of Approval

Community Development Department of Public Works

1. This Small Subdivision (S18-001) shall run with the land and shall remain valid regardless of any change of ownership of the project site, subject to these conditions, provided that a Parcel Map is recorded or a time extension request is submitted to the City's Community Development Department, Planning Division, within **ten (10) years** of this approval, or until _____ **2030, and subject to the terms and conditions of the Development Agreement.** Failure to record a Parcel Map, or failure to obtain a time extension within the two-year period will result in the expiration of this Small Subdivision (S18-001). (Applies to BioMarin component of project)

Department of Public Works

2. A Parcel Map shall be required. A copy of the recent title report, legal description, and closure calculations is required. The map shall be reviewed by the City Surveyor and City Engineer. Please see Title 15 of the Municipal Code for Parcel Map requirements. (Applies to BioMarin component of project)
3. If the installation of subdivision improvements is not completed prior to recordation of a Parcel Map, a subdivision improvement agreement and security, such as a bond or deposit shall be required. (Applies to BioMarin component of project)
4. A title report for the site is required to show the source information for lot lines on the tentative map. The referenced Record of Survey 2016 RS 131 notes that the Right-of-Way for Second Street could not be determined from the information provided. This area has been occupied by a sidewalk and in use by the public. The proposed project keeps this area clear, with allows for continued use as a sidewalk. (Applies to BioMarin component of project)
5. Prior to approval of the Tentative Map, the portion of the sidewalk shall be dedicated as public Right-of-Way, or at minimum a Public Access Easement and Public Utility Easement. (Applies to BioMarin component of project)
6. A portion of the traffic signal equipment at the corner of Lindaro St and Second St may extend on-site. The Tentative Map may include this area in an easement, or the public facilities shall be relocated off-site as part of the subdivision improvements. (Applies to BioMarin component of project)

Sign Program Amendment (SP18-006) Conditions of Approval

Community Development Department, Planning Division

1. The sign program and appearance and location of all approved signage, as presented to the Design Review Board at its June 18, 2019 hearing, labeled *BioMarin/Whistlestop/Eden Housing Project*, and on file with the Community Development Department, Planning Division, shall be the same as required for issuance of all building permits, subject to these conditions. Minor modifications or revisions to the signage shall be subject to review and approval of the Community Development Department, Planning Division. Further

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modifications deemed not minor by the Community Development Director shall require an amendment to the Sign Program. (Applies to BioMarin component of project)

- 2. This Sign Program Amendment (SP18-006) shall run with the land and shall remain valid regardless of any change of ownership of the Project site, subject to these conditions, provided that a building permit is issued and installation of signs commenced or a time extension request is submitted to the City's Community Development Department, Planning Division, **within ten (10) years of this approval, or until _____ 2030,** and subject to the terms and conditions of the Development Agreement. Failure to obtain a building permit and construction activities commenced, or failure to obtain a time extension within the two-year period will result in the expiration of this Sign Program Amendments. (Applies to BioMarin component of project)
- 3. This Sign Program Amendment (SP18-006) approving revised site and building signage shall run concurrently with the approved Environmental and Design Review Permit (ED18-087) and Master Use Permit (UP18-034). If either entitlement expires, this Sign Program Amendment shall also expire and become invalid.
- 4. Future changes to the signage shall require a Sign Permit to review and confirm changes are consistent with the Sign Program.
- 5. If future signage changes do not meet the Sign Program, the signage shall be revised to meet the approved Program or a Sign Program amendment will need to be applied for and approved

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of January 2020.

Moved by Commissioner _____ and seconded by Commissioner _____

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Paul A. Jensen, Secretary

BY: _____
Jeff Schoppert, Chair

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REVIEW OF GENERAL PLAN 2020 GOALS AND POLICIES 999 3rd Street BioMarin / Whistlestop / EDEN Housing Project Consistency with San Rafael General Plan 2020 Policies and Programs

LAND USE ELEMENT	
<p>LU-9. Intensity of Nonresidential Development. Commercial and industrial areas have been assigned floor area ratios (FAR's) to identify appropriate intensities (see Exhibits 4, 5 and 6). Maximum allowable FAR's 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><i>Consistent with amendment</i> According to Exhibit 6 of the General Plan, the maximum FAR for this site in the Downtown San Rafael 2/3 MUE District is 1.50. The project proposes to combine 118,099 sq ft of the parcel with the adjacent SRCC and proposes a General Plan Amendment to create a blended ratio of 0.90 for all parcels. The Whistlestop / Eden Housing portion of the project would be consistent with the existing 1.50 FAR allowance.</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><i>Consistent, with the requested Zoning Amendment</i> The 999 3rd St property is presently zoned 2/3 MUE, however, as proposed, the BioMarin portion of the project would be incorporated into the SRCC Planned Development District and a new PD would be established for all properties. In order to approve this project, the proposal includes a request for a change to the existing PD zoning. With the requested amendment to the PD District, the project would be consistent with Policy LU-10. The Whistlestop / EDEN Housing portion of the project would maintain the existing 2/3 MUE Zoning district and is not subject to this policy.</p>
<p>LU-12. Building Heights. Citywide height limits in San Rafael are described in Exhibits 7 and 8. For Downtown San Rafael height limits see Exhibit 7:</p>	<p><i>Consistent with amendment and concession</i> According to Exhibit 7 (<i>Building Heights Limits in Downtown San Rafael</i>) of the General Plan, the maximum height limit for this property is 54 feet. The project also proposes a Height Bonus amendment to General Plan Exhibit 10 which would allow a height increase up to 20-feet above the base height limits. The General Plan defines height of a building for non-hillside homes as determined by the methods in the latest edition of the Uniform Building Code. This definition measures height of a building as the vertical distance above a reference datum measured from lowest adjacent grade to the highest point of a flat roof. Using this definition, the proposed buildings would total 72 feet in height as measured by the Uniform Building Code, and would therefore be consistent with the height limits proposed for this site. Furthermore, mechanical equipment and the elevator towers are not included in height calculations based on the City's</p>

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	<p>Zoning Ordinance. For the Whistlestop, the project is requesting a concession to exceed the height limit of 54 feet. The General plan currently allows a height bonus of 12 feet in this area for affordable housing projects. The Whistlestop/EDEN housing project request 4 additional feet of bonus on top of the 12 foot bonus allowed by the City, through a concession under the state density bonus law.</p>
<p>LU-14. Land Use Compatibility. Design new development in mixed residential and commercial areas to minimize potential nuisance effects and to enhance their surroundings.</p>	<p><i>Consistent with Conditions</i> The project site is located in a general commercial/office area of the Downtown San Rafael area. The proposed research and development and residential buildings are consistent with the existing development found in the vicinity. The design of the structures are generally within the size and massing of other commercial buildings found throughout the area. The design, articulation and massing of both the BioMarin and Whistlestop/EDEN housing components of the project were reviewed by the Design Review Board on multiple occasions and found to be appropriately designed for the site and surroundings, given that the property is in the heart of downtown, on a major transportation corridor and abuts other larger scale buildings.</p> <p>Project impacts such as noise, traffic, lighting and hours of operation have been evaluated as part of the review of the Use Permit with a determination that there are no significant effects on the environment.</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 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><i>Consistent</i> This site is designated with the “2/3 MUE” District land use category. Office, research and development, and residential units are allowable land uses. The proposed uses would be consistent with the existing development in the area and are allowed by this land use designation.</p>

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HOUSING ELEMENT	
<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. Respect existing landforms and minimize effects on adjacent properties.</p>	<p><i>Consistent</i> The design of the Whistlestop/EDEN Housing project has been reviewed and recommended for approval by the Design Review board. The context of the project with it's surrounding was considered and found to be appropriate.</p>
<p>H-6. Funding for Affordable Housing. Seek proactive and creative ways to lower housing costs for lower income households and people living with special needs. Continue to use local, state and federal assistance to achieve housing goals and to increase ongoing local resources to provide for affordable housing.</p>	<p><i>Consistent</i> As required by the City of San Rafael development fees; the BioMarin project is required to pay an in-lieu fess into the City's affordable housing fund. The Whistlestop project would building a 100% senior affordable housing project, which would address a major need for affordable senior housing in the community.</p>
<p>Program H-6a In-Lieu Fees for Affordable Housing. Dedicate in-lieu fees for affordable housing, including rehabilitation, acquisition and design support for second units and infill housing.</p>	<p><i>Consistent</i> As stated under response to Policy H-6, the BioMarin project is required to pay an in lieu (based on a formula of development size per affordable unit cost) into the City's affordable housing fund to off set the housing impacts and affordable housing needs created by the construction of new employment. The Whistlestop/EDEN Housing portion of the project proposes 67 units of 100% affordable housing.</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.</p>	<p><i>Consistent</i> The development of the Whistlestop/EDEN housing project would address a special needs, affordable housing for seniors, by providing 67 units of affordable housing to low and very low income seniors</p>

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<p>Accessible units shall be provided in multi-family developments, consistent with State and Federal law.</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><i>See H-9 above</i></p>
<p>H-14. Adequate Sites. Maintain an adequate supply of land designated for all types of residential development to meet the housing needs of all economic segments in San Rafael. Within this total, the City shall also maintain a sufficient supply of land for multifamily housing to meet the quantified housing need of very low, low, and moderate income housing units. Encourage development of residential uses in commercial areas where the vitality of the area will not be adversely affected and the site or area will be enhanced by linking workers to jobs, and by providing shared use of the site or area.</p>	<p><i>Consistent</i> Although this site is not on the housing opportunities list of the Housing element, the project would increase housing, particularly, affordable housing for seniors</p>
<p>H-15. Infill Near Transit. Encourage higher densities on sites adjacent to a transit hub, focusing on the Priority Development Area surrounding the San Rafael Transportation Center and future Downtown SMART station.</p>	<p><i>Consistent</i> The Whistlestop/EDEN housing project would add 67 units near the Bettini Transit Station and Downtown SMART stations</p>
<p>H-17. Regulatory Processes and Incentives for Affordable Housing. San Rafael implements a variety of regulatory processes to address potential governmental constraints and incentivize the provision of affordable housing, including density</p>	<p><i>Consistent with concessions</i> For the Whistlestop/EDEN Housing component, the project has requested a density bonus greater than the 35% allowed by the State. The maximum density on the particular 15,000 sq ft site is 25 units and the 35% density bonus would allow 9 additional bonus units. The project is seeking a density of 67 units, which exceeds the maximum 35% bonus allowed by the State. The</p>

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bonuses, height bonuses, fee waivers, and reduced parking requirements. San Rafael's primary tool to support the development of affordable housing is through its Affordable Housing Ordinance which both produces affordable units and generates affordable housing in-lieu fees. San Rafael was one of the first cities in the State to adopt such an affordable housing requirement in the 1980's. This policy has resulted in the construction of numerous affordable units within market rate developments and provided additional funding for 100% affordable developments.

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. San Rafael has integrated State density bonus requirements within its Affordable Housing Ordinance (Zoning Code Section 14.16.030), depicting the connection with the City's Inclusionary Housing requirements.

H-17b. Height Bonuses. Continue to offer height bonuses for projects that include affordable housing units as provided in Exhibit 10 of the Land Use Element. Provide early design review to assist with potential design issues. Height increases may be granted with a use permit. Evaluate utilizing height bonuses as a tool to incentivize lot consolidation.

City of San Rafael has provisions in place to allow for such requests to be considered and granted for projects that provide significantly more affordable housing than the 20% required. In this particular case, the project proposes a 100% affordable housing project, therefore the increased density is supported.

In addition, the Whistlestop/EDEN housing project seeks 4 more feet than the 12 foot height bonus allowed by the City. They have requested a concession under the State Density bonus law and have demonstrated through a financial pro forma that the increased height and density are needed to make their project economically viable.

Lastly, the City does have provisions to waive certain impact fees, particularly the traffic mitigation fee, for affordable housing projects. The waiver of traffic mitigation fees is included in the project approvals. The City does allow for requests for waiver of building permit fees, for affordable housing project, subject to criteria established in the City's Fee Waiver process outlined in a City Council Resolution. Should the applicant choose to request this waiver, they can apply for consideration following approval of the project

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<p>H-17c. Waiver or Reduction of Fees. Continue to offer fee waivers and reductions for applications including affordable units, consistent with Resolution 11025. Facilitate the production of second units through elimination of the traffic mitigation fee (adopted in 2012), and coordination with local jurisdictions to lobby Las Gallinas Valley Sanitary District to reduce sewer connection fees for second units and affordable housing.</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 nonprofit housing development, etc. Allow for flexibility in providing affordable units as long as the intent of this policy is met. Specific requirements are 20% for projects that proposed 21 + units</p>	<p><i>Consistent</i> The Whistlestop/EDEN housing project exceeds the 20% requirement, by proposing a 100% affordable housing project</p>

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NEIGHBORHOODS ELEMENT	
<p>NH-7. Neighborhood Identity and Landmarks. Enhance neighborhood identity and sense of community by retaining and creating gateways, landmarks, and landscape improvements that help to define neighborhood entries and focal points.</p>	<p><i>Consistent</i></p> <p>The proposed project includes building design that presents an entry and focal point for the project along the 2nd and 3rd Street corridors. The BioMarin building establishes a unique, landmark building design, along a major arterials in the heart of downtown. The design utilizes high quality materials, and cutting edge design for this gateway site. Landscape plans are consistent with established landscaping for downtown development.</p> <p>The BioMarin component of the project, although tucked behind the BioMarin buildings, is designed to incorporate high quality materials, provide adequate setback and upper story stepbacks to address the pedestrian experience along Third St.</p>
<p>NH-8. Parking. Maintain well-landscaped parking lots and front setbacks in commercial and institutional properties that are located in or adjacent to residential neighborhoods. Promote ways to encourage parking opportunities that are consistent with the design guidelines.</p>	<p><i>Consistent</i></p> <p>The proposed project includes landscape plans for surface parking areas and maintains existing and required setbacks for adjacent properties.</p>
<p>NH-136. Design Excellence. Assure quality of design by supporting policies that encourage harmonious and aesthetically pleasing design for new and existing development. Upgrade and coordinate landscaping, signage, and building design in the Town Center area, as well as improving building and landscaping maintenance.</p>	<p><i>Consistent</i></p> <p>The proposed project includes building design consistent with development in the plan area. The two components of this project complement each other, even though they provide two distinct architectural styles. See NH-7 above</p>

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<p>NH-22. Housing Downtown. Create a popular and attractive residential environment that contributes to the activity and sense of community Downtown. This includes:</p> <ul style="list-style-type: none"> a. Preserving and upgrading existing units, b. Providing incentives to encourage new private sector construction of housing, particularly affordable housing, live/work units, and single room occupancy (SRO) units, c. Designing units that take advantage of Downtown's views, proximity to shopping and services, and transit, and d. Implementing zoning standards that reflect Downtown's urban character. 	<p><i>Consistent</i> The proposed project includes building 67-units of 100% affordable housing in a design consistent with existing development in the plan area and close to existing services, amenities, and transit.</p>
<p>NH-29. Downtown Design. New and remodeled buildings must contribute to Downtown's hometown feel. Design elements that enhance Downtown's identity and complement the existing attractive environment are encouraged, and may be required for locations with high visibility or for compatibility with historic structures. Design considerations include:</p> <ul style="list-style-type: none"> • Varied and distinctive building designs, • Sensitive treatment of historic resources, • Generous landscaping to accent buildings, • Appropriate materials and construction, and • Site design and streetscape continuity 	<p><i>Consistent</i> The proposed project includes building design that presents an entry and focal point for the project along the 2nd and 3rd Street corridors. The project includes design consideration that include varied and distinctive building designs, varied and setbacks along 2nd and 3rd St's and S generous landscaping to accent buildings, appropriate materials and construction, and site design and streetscape continuity.</p>
<p>NH-30. Pedestrian Environments. Enhance Downtown's streets by establishing pedestrian environments appropriate to each District. These environments could include the following:</p> <ul style="list-style-type: none"> • Well-designed window displays and views into retail 	<p><i>Consistent</i> The proposed project includes appropriate building setbacks, landscaping and pedestrian access, including well-designed retail spaces, signs that are easy for pedestrians to see and read, sun-filled outdoor courtyards, plazas and seating areas adjacent to main thoroughfares, and attractive street furniture and lighting.</p>

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<p>stores,</p> <ul style="list-style-type: none"> • Outdoor businesses and street vendors, • Signs that are easy for pedestrians to see and read, • Sun-filled outdoor courtyards, plazas and seating areas, • Attractive street furniture and lighting, 	
<p>NH-31. Ground Floor Designed for Pedestrians. Ensure that all buildings, regardless of height, are comfortable for people at the street level. This includes:</p> <ul style="list-style-type: none"> • Relating wall and window heights to the height of people, • Use of architectural elements to create visual interest, • Adding landscaping and insets and alcoves for pedestrian interest, and, • Stepping upper stories back as building height increases. 	<p><i>Consistent</i></p> <p>The proposed project includes appropriate building setbacks, landscaping and pedestrian access. Both portions of the project include well-defined entrances for pedestrians and ground floor services including a retail/café area at the corner of 3rd and Lindaro. The Whistlestop portion of the project was significantly redesigned through the Design Review process to enhance and improve the pedestrian experience and the final design and ultimately recommended for approval by the Design Review Board.</p>
<p>COMMUNITY DESIGN ELEMENT</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><i>Consistent</i></p> <p>This proposed project would not have a significant impact on views of the hills and ridgelines or Mt. Tamalpais from public vantage points around the site. The project is proposing a height increase that is consistent with the height within the context of the surrounding development. The Environmental Impact Report (EIR) prepared for the project evaluated impacts to scenic resources and views and concluded that there are no significant impacts. Furthermore, the Design Review Board reviewed the proposed project for consistent with this Community Design policies of the General Plan and recommended approval to the Planning Commission.</p>
<p>CD-10 (Non-Residential Design Guidelines). Recognize, preserve and enhance the design elements that contribute to the economic vitality of</p>	<p><i>Consistent with conditions</i></p> <p>As part of the General Plan 2020, the City adopted residential design guidelines for non-residential projects. The Design Review Board reviewed the proposed project for consistency</p>

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<p>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>with both the City's non-residential and residential guidelines and provided comments and recommendations for the project design.</p>
<p>CD-15. Participation in Project Review. Provide for public involvement in the review of new development, renovations, and public projects with the following: a) design guidelines and other information relevant to the project as described in the Community Design Element that would be used by residents, designers, project developers, City staff, and City decision makers; b) distribution of the procedures of the development process that include the following: submittal information, timelines for public review, and public notice requirements; c) standardized thresholds that state when design review of projects is required (e.g. residential conversions, second-story additions); and d) effective public participation in the review process.</p>	<p><i>Consistent</i> When the application for this project was received, copies of plans were referred to all surrounding neighborhood groups. Notices of public hearings were mailed to all property owners, neighborhood groups and interested parties within 300 of the project site informing them of the proposed project and all public meetings prior to all public meetings conducted for this project. In addition, the site was posted with notice of all public meetings on this proposed project. The applicant has been active in reaching out to community and neighborhood groups.</p>
<p>CD-16. Property Maintenance. Provide incentives and enforcement to achieve desirable property maintenance.</p>	<p><i>Consistent with conditions</i> As part of this Environmental and Design Review Permit, conditions of approval will be included requiring a landscape and property maintenance agreements.</p>
<p>CD-18. Landscaping. Recognize the unique contribution provided by landscaping, and make it a significant component of all site design.</p>	<p><i>Consistent with conditions</i> A landscape plan was presented as part of this project for new landscaping. The landscape plan was reviewed by the Design Review Board and found to be acceptable.</p>
<p>CD-19. Lighting. Allow adequate site lighting for safety purposes while controlling excessive light spillover and glare.</p>	<p><i>Consistent</i> A lighting plan was submitted with the application which indicates no excessive light spillover or glare. A final lighting plan will be required prior to issuance of a building permit and once the lighting is installed, there will be a 30-day lighting review to confirm the light levels and require adjustments if necessary.</p>

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<p>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.</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><i>Consistent</i> A landscape plan was presented as part of this project for new landscaping which included screen/shade trees for surface parking. No shade or solar structure are proposed to cover all vehicle parking spaces.</p>
<p>ECONOMIC VITALITY</p>	
<p>Policy EV-1. Economic Health and Quality of Life Understand and appreciate the contributions essential to our quality of life made by a healthy economy, especially to public safety, our schools, recreation, and government services.</p>	<p><i>Consistent</i> The proposed project would help retain an existing business in the City thus contributing to the City's economic vitality. The project would result in the occupancy of a large, vacant existing infill site, which would enhance the physical environment of the Downtown and surrounding area.</p>
<p>Policy EV-2. Seek, Retain, and Promote</p>	<p><i>Consistent</i></p>

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<p>Businesses that Enhance San Rafael. Recruit and retain businesses that contribute to our economic vitality, thus helping to provide needed local goods, services and employment, and enhance the City's physical environment.</p>	<p>The proposed project would help retain an existing business in the City and allow for it's continued growth, thus contributing to the City's economic vitality. The project would result in the development of two marquee facilities for current major San Rafael businesses/employers.</p> <p>In addition, the BioMarin Development would allow for the relocation of the Whistlestop senior center from it's current location to this site and allow for the development of a new, modern health aging campus with 67 affordable senior units. Whistlestop is an important employer in the city and downtown, but more importantly, if a key service provider to residents of San Rafael and the County as a whole.</p>
<p>Policy EV-4. Local Economic and Community Impacts. In addition to review of environmental, traffic and community design impacts, take the following into account when major projects, policies and land use decisions are under review:</p> <ul style="list-style-type: none"> • Fiscal impacts on the City's ability to provide and maintain infrastructure and services. • Impacts on the community such as the provision of jobs which match the local workforce, commute reduction proposals, and affordable housing. • Additional or unique economic, fiscal and job-related impacts. • Fiscal and community impacts of not approving a project, plan or policy. 	<p><i>Consistent</i> Required infrastructure and services are already available for the property. The project site is located off 2nd and 3rd Street. The proposed project would add to the local job pool that in turn, would result in commute reduction for local employees who would be employed by BioMarin/Whistlestop. The development includes affordable housing.</p>
<p>EV-11. Promotion of Workplace Alternatives. Promote the establishment of workplace alternatives, including home-based businesses, telecommuting and satellite work centers.</p> <p>EV-11a. Home Occupations. Work with neighborhood organizations and business owners to reexamine and update home occupation zoning regulations to reflect</p>	<p><i>Consistent</i> The project applicant has included a Transportation Demand Management Plan as part of the project and includes concepts like carpooling and shuttle services.</p>

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<p>changing trends. Continue to enforce compliance of unlicensed home businesses.</p> <p>EV-11b. Telecommute Policy. Consider establishing a telecommute policy for City employees.</p> <p>EV-11c. Workplace Alternatives. Encourage employers to offer workplace alternatives and promote the formation of satellite business centers.</p>	
<p>Program EV-13a. Zoning Regulations. Review zoning and development regulations for each business area and make sure that they are consistent, with the objective of strengthening the unique economic role of each area.</p>	<p><i>Consistent</i></p> <p>The project proposes amending PD-1936 to accommodate the BioMarin portion of the project which will contribute to the important economic role in the City.</p>
<p>CIRCULATION ELEMENT</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><i>Consistent with Statement of Overriding Considerations/conditions</i></p> <p>The traffic analysis for this new project identifies that the combined project would generate 472 peak trips (236 in the A.M. peak period and 236 trips in the PM peak period). The EIR prepared for the project identified all circulation network impacts and proposed mitigation as appropriate. However, there are no feasible mitigation measures for impacts to LOS to the circulation network surrounding the project area. Pursuant to CEQA Guidelines Section 15063, the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards.</p>
<p>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</p>	<p><i>Consistent, with Exception</i></p> <p>See C-5. The development of this project would result in deviations from the LOS standards identified in Policy C-5. Similar to the EIR process which identifies deviations from thresholds as significant, unavoidable impacts, The General Plan includes a policy to allow the exception fo the LOS standards, based on the findinds that are listed.</p>

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<p>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.</p>	<p>The City has considered the impacts to LOS standards, and found tthat the project provides such economic, social and other public benefits that outweigh the impacts to the circulation network. The primary findings include:</p> <ul style="list-style-type: none"> • Project would allow and accommodate the future growth needs for a major downtown employer, which will allow that employer to continue to succeed. • BioMarin is a major employer in Downtown and provides multiple spin off effects from their employees shopping and dining and patronizing other businesses in downtown • The BioMarin development would facilitate the relocation of Whistlestop, providing them with an location to build a new health aging campus and 67 affordable units • The project would redevelop a vacant and underutilized, former brownfield site, with a high quality project, that would serve as catalyst to growth in Downtown • Other public benefits, including monetary contributions to transportation improvements, provision of a public plaza and retail space in one of the new BioMarin buildings and numerous other public benefits. <p>Findings to grant the Exception to LOS standard have been made and are included in the Resolutions recommending approval of the project.</p>
<p>Policy C-7. Circulation Improvements Funding. Take a strong advocacy role in securing funding for planned circulation improvements. Continue to seek comprehensive funding that includes Federal, State, County and Redevelopment funding, 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><i>Consistent with mitigation measures/conditions</i> The City of San Rafael has adopted Traffic Mitigation fees for new projects. The Traffic Mitigation fees are used to make necessary improvements to the traffic network. As proposed, the project would be required to pay traffic mitigation fees, which would support circulation improvements funding under Policy C-6 and C-7.</p>
<p>C-8. Eliminating and Shifting Peak Hour Trips. Support efforts to limit traffic congestion through</p>	<p><i>Consistent</i> The project applicant has included a Transportation Demand Management Plan as part of the</p>

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<p>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>application submittal and includes concepts like carpooling, bicycle parking, shuttle services, and transit subsidies.</p>
<p>C-12. Transportation Demand Management. Work cooperatively with governmental agencies, non-profits, businesses, institutions and residential neighborhoods to create new and effective Transportation Demand Management (TDM) programs to minimize single occupancy automobile use and peak period traffic demand.</p> <p>C-12a. Regional Support for TDM. Support regional efforts to work with employers to provide TDM programs.</p> <p>C-12b. City Support for TDM. Serve as a resource to employers wishing to implement TDM by providing information through printed materials, workshops and other means. Encourage smaller employers to “pool” resources to create effective TDM programs.</p> <p>C-12c. City TDM Program. Identify cost-effective City of San Rafael TDM programs for City employees. Consider approaches taken by the County in its Employee Commute Alternative Program.</p>	<p><i>Consistent</i></p> <p>The project applicant has included a Transportation Demand Management Plan as part of the application submittal and includes concepts like carpooling, bicycle parking, shuttle services, and transit subsidies. The ERI certified for the project, including mitigation measures, requires a 15% reduction in trips</p>
<p>INFRASTRUCTURE ELEMENT</p>	
<p>I-10. Sewer Facilities. Existing and future</p>	<p><i>Consistent</i></p>

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<p>development needs should be coordinated with responsible districts and agencies to assure that facility expansion and/or improvement meets Federal and State standards and occurs in a timely fashion.</p>	<p>The site is already served by the San Rafael Sanitation District and they have reviewed the project and determined that there is adequate capacity to serve the addition of this facility.</p>
<p>GOVERNANCE ELEMENT</p>	
<p>G-1. Jobs and Diversity. Encourage the creation and retention of a wide variety of job opportunities at a mix of economic levels.</p>	<p><i>Consistent</i> The proposed project would add laboratory and office spaces for a leading San Rafael business/employer. In addition, the project would support the continued operations of another leading business/employer, Whistlestop, by developing a high quality Healthy Aging Campus.</p>
<p>SUSTAINABILITY ELEMENT</p>	
<p>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.</p>	<p><i>Consistent</i> The uses are proposed within a vacant parcel adjacent to an office park that is close to public transit (Bettini Transit Station and SMART rail station at Downtown).</p>
<p>SU-2. Promote Alternative Transportation. Decrease miles traveled in single-occupant vehicles.</p>	<p><i>Consistent with conditions</i> The project includes a TDM to reduce vehicular trips by 15%</p>
<p>SU-5. Reduce Use of Non-Renewable Resources. Reduce dependency on non-renewable resources.</p>	<p><i>Consistent</i> The project is required to comply with the recently updated California Green codes</p>
<p>SU-6. Resource Efficiency in Site Development. Encourage site planning and development practices that reduce energy demand, support transportation alternatives and incorporate resource- and energy-efficient infrastructure.</p>	<p><i>Consistent</i> Site planning considered ways to reduce energy reduction. See SUU-1 and SU-5 above. In addition, development housing and a major</p>

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SAFETY ELEMENT	
<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><i>Consistent</i> Geoseismic dangers will be evaluated through the review and approvals process for project site and have consistently found that the project would not pose potential danger to the health, safety and welfare of the community.</p>
<p>S-3. Use of Hazard Maps in Development Review. Review Slope Stability, Seismic Hazard, and Flood Hazard Maps at the time a development is proposed. Undertake appropriate studies to assure identification and implementation of mitigation measures for identified hazards.</p>	<p><i>Consistent</i> The Geology and Stability Map and Flood Hazard Area Maps of the General Plan, Exhibits 27 and 29, were reviewed and it was determined that based on these maps, the site is located in the 100-year flood hazard area and located in an areas that is characterized as artificial fill. The project has been designed to address these baseline considerations.</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><i>Consistent with conditions</i> A Geotechnical Investigation Report was prepared by Miller Pacific Engineering and reviewed by the City as a component of the environmental review prepared for the project. The report meets the requirements set forth in the Geotechnical Review Matrix and is appropriate for the preliminary design stages of the project. The report will be peer reviewed from a geotechnical engineering standpoint as part of the EIR and any mitigation measures will be incorporated as conditions of approval.</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</p>	<p><i>Consistent with conditions</i> The above-mentioned Geotechnical Investigation Reports and peer reviews will assess the project feasibility from a geotechnical standpoint and recommended mitigation measures to ensure the potential hazards are reduced to levels of insignificance would be incorporated as conditions of approval.</p>

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mitigated.	
<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><i>Consistent with conditions</i> The project site including a major portion of Marin County is located within Seismic Source Type “A” (capable of large magnitude earthquakes and high rate of seismic activity). A Geotechnical report must be prepared and submitted with building permit plans would guide the design and construction of the new building to resist stresses produced by earthquakes. With the implementation of this measure, the project is consistent with this policy for Seismic Safety of New Buildings. Mitigation measures have been incorporated as conditions of approval.</p>
<p>S-12. Use of Environmental Databases in Development Review. Review the San Rafael Fire Department’s database of contaminated sites at the time a development is proposed. Undertake appropriate studies to assure identification and implementation of mitigation measures for sites on or near identified hazards.</p>	<p><i>Consistent</i> A Phase I environmental report was prepared for the existing office building as part of the environmental review. The site is currently undergoing remediation to remove hazardous material. This action and accompanying studies will be incorporated into the final environmental document prepared for the project.</p>
<p>S-13. Potential Hazardous Soils Conditions. Where development is proposed on sites with known previous contamination, sites filled prior to 1974 or sites that were historically auto service, industrial or other land uses that may have involved hazardous materials, evaluate such sites for the presence of toxic or hazardous materials. The requirements for site-specific investigation are contained in the Geotechnical Review Matrix.</p>	<p><i>Consistent</i> See Response to S-12 above.</p>
<p>S-14. Hazardous Materials Storage, Use and Disposal. Enforce regulations regarding proper storage, use and disposal of hazardous materials to prevent leakage, potential explosions, fires, or the escape of harmful gases, and to prevent individually innocuous materials from combining to form hazardous substances, especially at the time of</p>	<p><i>Consistent</i> No hazardous materials are proposed to be used, stored or disposed of at this site as part of the new mixed-use building. This proposed project would not impact that permit and no further permitting or evaluation is necessary.</p>

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<p>disposal.</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 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><i>Consistent with conditions</i> The EIR prepared to evaluate the hydrology and water quality impacts of the proposed project on the environment and determined that through implementation of recommended mitigation measures impacts could be reduced to less than significant levels.</p> <p>The proposed project would also implement stormwater control measures such as Low Impact Development (LID) and Best Management Practices (BMP’s) to address long-term operational water quality impacts associated with the project.</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 <i>Erosion and Sediment Control Field Manual</i> and the Association of Bay Area Governments’ <i>Manual of Standards for Erosion and Sediment Control</i> 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><i>Consistent with conditions</i> The EIR prepared to evaluate the hydrology and water quality impacts of the proposed project on the environment determined that through implementation of recommended mitigation measures impacts could be reduced to less than significant levels.</p> <p>This project has been reviewed by the City’s Public Works Department which implements the erosion and sediment control standards and regulations. A standard condition of approval would require the applicant to submit a soil management plan (SMP) addressing soil and groundwater management for review and approval by the City of San Rafael Public Works Department prior to the issuance of building permits.</p>

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<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>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><i>Consistent with condition</i> This project has been reviewed by the City's Public Works Department which implements the Stormwater Pollution Prevention standards and regulations. As designed, the proposed project includes adequate measures to reduce stormwater run-off consistent with the standards established by the RWQCB. The project would direct all run-off to the landscape areas and on-site filtration devices, before being discharged into the City's stormdrain system. A standard condition of approval would require the applicant to submit a Storm Water Pollution Prevention Plan (SWPPP) for review and approval by the City of San Rafael Public Works Department prior to the issuance of building permits.</p>
<p>S-26. Fire and Police Services. Maintain adequate cost-effective fire protection, paramedic and police services. Minimize increases in service needs from new development through continued fire prevention and community policing programs.</p>	<p><i>Consistent with conditions</i> The City of San Rafael Police and Fire Departments have both reviewed the proposed project and certain conditions of approval to ensure that the new development would comply with their regulations and standards. The Fire Department has found that the project would comply with all Fire Codes and their recommended conditions of approval have been incorporated. The Crime Prevention officer of the Police Department has also reviewed the proposed project and found that the use and structure would be consistent with their crime prevention standards.</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</p>	<p><i>Consistent with condition</i> Exhibit 31 of the General Plan 2020 illustrates the land use compatibility standards for locating new development in existing environments. The land use category for the proposed use would be medical office. New uses in this category are conditionally permitted in environments that exhibit between 65 and 85 L_{dn} (dB). An evaluation in the EIR of the existing noise environment around the site would require consistency with adopted Noise Ordinance and Policies.</p>

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<p>a project exceeds the standards in Exhibit 31, an acoustical analysis shall be required to 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-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><i>Consistent</i> See N-1 above</p>
<p>N-4. Noise from New Nonresidential Development. Design nonresidential development to minimize noise impacts on neighboring uses.</p> <p>a. Performance Standards for Uses Affecting Residential Districts. New nonresidential development shall not increase noise levels in a residential district by more than L_{dn} 3 dB, or create noise impacts that would increase noise levels to more than L_{dn} 60 dB at the property line of the noise receiving use, whichever is the more restrictive standard.</p> <p>b. Performance Standards for Uses Affecting Nonresidential and Mixed Use Districts. New nonresidential projects shall not increase noise levels in a nonresidential or mixed-use district by more than L_{dn} 5 dB, or create noise impacts that would increase noise levels to more than L_{dn} 65 dB (Office, Retail) or L_{dn} 70 dB (Industrial), at the property line of the noise receiving use, whichever is the more restrictive standard.</p> <p>c. Waiver. These standards may be waived if, as determined by an acoustical study, there are mitigating circumstances (such as higher existing</p>	<p><i>Consistent with conditions</i> The EIR prepared to evaluate the noise impacts of the proposed project on sensitive receptors determined that there are no significant effects to the environment after implementation of mitigation measures. Best Management construction techniques approval to limit potential sources of auditory impacts will be implemented as a condition of approval.</p>

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<p>noise levels), and no uses would be adversely affected.</p> <p>N-4a. Require Acoustical Study. Identify through an acoustical study noise mitigation measures to be designed and built into new nonresidential and mixed-use development, and encourage absorptive types of mitigation measures between noise sources and residential districts.</p>	
<p>N-5. Traffic Noise from New Development. Minimize noise impacts of increased off-site traffic caused by new development. Where the exterior L_{dn} 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 L_{dn} 3 dB, reasonable noise mitigation measures shall be included in the plan, program or project.</p>	<p><i>Consistent</i> The EIR prepared to evaluate the noise impacts of the proposed project on sensitive receptors requires implementation of mitigation measures to reduce potential significant effects to the environment to less than significant levels. Best Management construction techniques approval to limit potential sources of auditory impacts during construction will be implemented as a condition of approval. The EIR also evaluated long-term impacts due to operational activities.</p>
CONSERVATION ELEMENT	
<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><i>Consistent</i> The proposed project would be developed on a previously developed site on which there are no known environmental resources.</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><i>Consistent</i> The project includes a landscape plan that is consistent with drought-tolerant planting and native species.</p>

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<p>CON-16a. Distribution of Information. Distribute Marin Municipal Water District and other organizations' educational materials about native plant landscaping.</p>	
<p>CON-17. Resource-efficient Organizations and Businesses. Encourage businesses, commercial property owners, apartment building owners and non-profit organizations to be resource, energy and water efficient.</p> <p>CON-17a. Regional Energy Office. Consider participation in the County's Regional Energy Office.</p> <p>CON 17b. Green Business Program. Encourage San Rafael businesses to participate in the County's Green Business program.</p>	<p><i>Consistent</i> The project includes a landscape plan that is consistent with drought-tolerant planting and native species.</p>
<p>CON-18. Resource-Efficient Building Design. Promote and encourage residences to be resource, energy and water efficient by creating incentives and removing obstacles to promote their use.</p> <p>CON-18a. Energy-efficient Homes. Encourage the construction of homes and buildings that exceed Title 24 standards. Consider adoption of an ordinance requiring greater energy efficiency in construction of larger homes.</p> <p>CON-18b. Zoning and Building Code Review. Identify barriers to resource efficiency in the Zoning and Building Codes and evaluate the suitability of removing those obstacles.</p> <p>CON-18c. Use of Alternative Building Materials. Evaluate the benefits and impacts of</p>	<p><i>Consistent</i> The project is designed to be energy efficient and adhere to LEED standards for commercial development.</p>

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<p>amending the City’s building codes and zoning ordinances to allow the use of acceptable resource-efficient alternative building materials and methods.</p> <p>CON-18d. Incentives for Solar and Clean Energy. Seek ways to provide incentives for solar and clean energy systems.</p> <p>CON-18e. LEED Program. Encourage developers to use “Leadership in Energy and Environmental Design” Standards.</p>	
<p>CON-20. Water Conservation. Encourage water-conserving practices in businesses, homes and institutions and increase the use of recycled water.</p> <p>CON-20a. Water Conserving Landscaping. Make available to property managers, designers and homeowners information about water-conserving landscaping and water-recycling methods and resources.</p> <p>CON-20b. Water Recycling. Support the extension of recycled water distribution infrastructure. Require the use of recycled water where available.</p>	<p><i>Consistent</i> The project includes a landscape plan that is consistent with drought-tolerant planting and native species.</p>
<p>CON-23. Energy-efficient Transportation Programs. Encourage the creation of programs such as Transportation Systems Management (TSM), public transit, carpools/ vanpools, ride-match, bicycling, and other alternatives to the energy-inefficient use of vehicles.</p>	<p><i>Consistent</i> The applicant has included a TDM as part of the application submittal.</p>

EXHIBIT 3

REVIEW OF GENERAL PLAN 2020 GOALS AND POLICIES 999 3rd Street BioMarin / Whistlestop / EDEN Housing Project Consistency with San Rafael General Plan 2020 Policies and Programs

AIR AND WATER QUALITY ELEMENT	
<p>AW-1. State and Federal Standards. Continue to comply and strive to exceed state and federal standards for air quality for the benefit of the Bay Area.</p>	<p><i>Consistent with condition</i> Due to the nature of the proposed development, the project would not generate any excessive air quality impacts and would be consistent with the Bay Area Air Quality District requirements. Traffic associated with the facility was evaluated and found to be within the thresholds established for air quality impacts. Furthermore, the proposed development is within the additional development assumed under the General Plan 2020 and therefore cumulative impacts have been analyzed and found to be acceptable.</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><i>Consistent</i> This proposed development is situated in the Downtown San Rafael District area and abuts many other similar use buildings. The proposed land use from this project is compatible with surrounding land uses.</p>
<p>AW-4. Particulate Matter Pollution Reduction. Promote the reduction of particulate matter pollution from roads, parking lots, construction sites, agricultural lands and other activities.</p> <p>AW-4a. Pollution Reduction. Through development review, ensure that any proposed new sources of particulate matter use latest control technology (such as enclosures, paving unpaved areas, parking lot sweeping and landscaping) and provide adequate buffer setbacks to protect existing or future sensitive receptors.</p> <p>AW-4b. Fireplaces and Wood burning Stoves. Cooperate with the local air quality district to monitor air pollution and enforce mitigations in areas affected by emissions from fireplaces and wood burning stoves. Encourage efficient use of home wood burning heating</p>	<p><i>Consistent with condition</i> The project would be required to implement Air Quality control measures per EIR analysis for construction activities. The proposed drainage plan is designed to be consistent with local air-quality pollution standards by implementing dust and pollution control measures during construction.</p>

EXHIBIT 3

**REVIEW OF GENERAL PLAN 2020 GOALS AND POLICIES
999 3rd Street BioMarin / Whistlestop / EDEN Housing Project Consistency with
San Rafael General Plan 2020 Policies and Programs**

<p>devices. Adopt and implement the BAAQMD Model Wood smoke Ordinance for new residential development.</p>	
<p>AW-7. Local, State and Federal Standards. Continue to comply with local, state and federal standards for water quality.</p>	<p><i>Consistent with condition</i> The project would be required to comply with the City's Stormwater Pollution Prevention standards which are derived from the Regional Water Quality Board. The proposed drainage plan is designed to be consistent with the stormwater pollution standards by treating stormwater runoff on-site in landscape areas or through an on-site filtration area before it enters into the storm drain system.</p>
<p>AW-8. Reduce Pollution from Urban Runoff. Address non-point source pollution and protect receiving waters from pollutants discharged to the storm drain system by requiring Best Management Practices quality.</p> <ul style="list-style-type: none"> • 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. <p>Where feasible, use vegetation to absorb and filter fertilizers, pesticides and other pollutants.</p>	<p><i>Consistent</i> See AW-7 above. Furthermore, as a standard building permit condition of approval, the proposed project would implement a storm water pollution and prevention plan (SWPPP) and Best Management Practices to minimize impacts on water quality and non-point source pollution discharge into the storm water system.</p>

EXHIBIT 4

SAN RAFAEL DESIGN GUIDELINES

999 3rd Street – BioMarin/Whistlestop/Eden Housing Project Consistency with San Rafael Design Guidelines

PARKING LOTS	
<ul style="list-style-type: none"> • A logical sequence of entry and arrival as part of the site’s design should be provided. • Where possible, design entrances from the street to direct views toward the building entry. • Parking areas should be screened from the street with hedges, walls, fences or berms, subject to security considerations. • Auto and pedestrian entrances into development should be easy to find. Use of special entry treatment, special plantings and signage should be located at the entries. • Pedestrian areas should be made visually attractive with special planting and flowering trees. • Shade trees should be provided in parking lots per the Zoning Ordinance. 	<p><i>Consistent</i></p> <p>The project site design provides a clear sense of entry from Lindaro and directs views toward the proposed building. The landscape plan includes screen trees and plantings around the base of the structure to soften the edge appearance. Pedestrian areas are visually attractive and include special planting and flowering trees. Shade trees are provided in parking lots per the Zoning Ordinance.</p>
LANDSCAPING	
<ul style="list-style-type: none"> • Landscaped areas should be planned as integral parts of the development and to create a strongly landscaped character of the site. • Commercial signage or displays should not be hidden with landscaping. • Trees should be planted in a variety of locations. • Add street trees where practical. 	<p><i>Consistent</i></p> <p>The project is in compliance with the above Landscaping guidelines. The planting plan proposes native trees to provide screening. Street trees in front of the proposed structures are proposed wherever appropriate for emergency and fire service access.</p>
LIGHTING	
<ul style="list-style-type: none"> • Limit the intensity of lighting to provide for adequate site security and for pedestrian and vehicular safety. • Shield light sources to prevent glare and illumination beyond boundaries of the property. • Lighting fixtures should compliment the project architecture. 	<p><i>Consistent</i></p> <p>The lighting plan submitted indicates that the project does not create glare or illumination beyond the property boundary. The final building permit is conditioned to be consistent with this guideline. Security and nighttime wayfinding lighting are required to be night-sky compliant and</p>

EXHIBIT 4

SAN RAFAEL DESIGN GUIDELINES

999 3rd Street – BioMarin/Whistlestop/Eden Housing Project Consistency with San Rafael Design Guidelines

	consistent with San Rafael guidelines for nighttime glare.
PEDESTRIAN CIRCULATION	
<ul style="list-style-type: none"> • Consider pedestrian orientation when designing building entries, windows, signage and doors. • Include a well-defined pedestrian walkway between the street and building entry. • Clearly define pedestrian movement through parking lots by using pavement treatment and landscaped walkways. • Where appropriate, include outdoor gathering places and seating for the public. • Adequate facilities for bicycle parking should be provided. 	<p><i>Consistent</i></p> <p>The main pedestrian access is located on the east side of the proposed project site and opposite/adjacent to main access to the existing parking structure on the main SRCC campus. Existing pedestrian sidewalks and walkways would continue to provide access to the proposed building site and throughout the site to transit stops adjacent to the San Rafael Transit Center. New structures are designed to provide bicycle parking.</p>
BUILDING FORM	
Consider the development's visual and spatial relationship to adjacent buildings and other structures in the area.	<p><i>Consistent</i></p> <p>The proposed structure is consistent in building form with structures within the project area.</p>
ENTRYWAYS	
Building entrances should be defined with architectural elements such as roof form changes, awnings, or other architectural elements.	<p><i>Consistent</i></p> <p>The proposed structure materials generally consist of glass, concrete and other high-quality elements. Entrance to the site would be clearly identified through BioMarin wayfinding signage consistent with branding criteria.</p>
AWNINGS	
Where appropriate, provide awnings to enhance the design of the building, provide weather protection, and create a sense of human scale.	<p><i>Consistent</i></p> <p>No awning or shade structures are proposed for the parking areas. The proposed "front porch" reduces the building's mass for a more inviting human scale feel for the public plaza.</p>

EXHIBIT 4

SAN RAFAEL DESIGN GUIDELINES

999 3rd Street – BioMarin/Whistlestop/Eden Housing Project Consistency with San Rafael Design Guidelines

MATERIALS AND COLORS	
<ul style="list-style-type: none">• Use articulation, texturing and detailing on all concrete exposed to exterior view.• Exterior materials should minimize reflectivity.• Use color to provide appropriate accents on a building.	<p><i>Consistent</i></p> <p>The proposed project is consistent with this guideline. The proposed plans depict appropriate articulation, texturing and detailing and appropriate exterior materials. The structures proposed include articulation, texturing and other detailed elements and other screen elements.</p>

Terms Sheet for BioMarin Development Agreement

January 22, 2020

Scope: BioMarin's current campus, the 999 Third St. project, 755 Lindaro St., and the expansion of the Lincoln Parking Structure.

Term: 10 years following the effective date.

City Obligations

1. Provide 10-year term for vesting of entitlements for the 999 Third St., 755 Lindaro St. and Lincoln Parking Structure provided:
 - a) If BioMarin has not commenced construction of 999 Third St. by the 6th anniversary of the effective date of the DA, then BioMarin shall construct the Class II Bike lane along Lindaro from 3rd to Anderson as described in new obligation #5 and the improvements to the 2nd and Lindaro intersection per new obligation #8, below;
 - b) If BioMarin has not commenced construction of second building at 999 Third Street by the 8th anniversary of the effective date of the DA, the vesting of the entitlements for the development of 755 Lindaro Street will expire; and.
 - c) Annually, on request by the City, BioMarin will report to the City on the status of its development plans related to the DA.
2. Remove existing condition imposed on 755 Lindaro/Lincoln Garage for Pedestrian connection to SMART along Creek for public safety.
3. Relocate the existing conference rooms available for public use from 755 Lindaro to 999 3rd street with the same terms and conditions previously accepted by BioMarin and the City.
4. Freeze any applicable City development impact fees (including but not limited to the traffic mitigation and affordable housing linkage fee) in place as of the initial approval of the Development Agreement and calculate any in lieu housing fees in a manner consistent with employee density expected with the office/lab space as proposed in the project.

BioMarin Obligations/Benefits

Existing Obligations/Benefits to Remain

1. Public use of Park
2. Public use of 2,500-square foot Conference Center
3. Public use of Lindaro surface lot

Additional Obligations/Benefits Offered in the DA

1. Provide Whistlestop the portion of 999 Third St. for senior housing development through a land swap for the Lindaro corporation yard, which due to the delta in value of the two properties results in BioMarin's donation of \$1.2M to support the development of the healthy aging center and affordable senior housing.

Terms Sheet for BioMarin Development Agreement

January 22, 2020

2. Contribute, \$100,000 each year (commencing on the first anniversary of the DA) for 4 years to the City of San Rafael for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as determined by the City.
3. Remediate a brownfield in the heart of downtown San Rafael, resulting in BioMarin out of pocket costs of over \$2M and total remediation costs of over \$16M.
4. Contribute \$500,000 to the City of San Rafael towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as determined by the City. This may be payable in full at the first anniversary of the DA, or \$125,000 each year (commencing on the first anniversary of the DA) for 4 years.
5. Add striping for Class II Bike lane along Lindaro from 3rd to Anderson with completion of Phase I.
6. Provide 6,000 sf Public Plaza “Front Porch” available to the public during business hours.
7. Provide 3,500 sf Retail open to public during business hours.
8. Improve pedestrian safety with restriping at intersection of 2nd & Lindaro with completion of Phase I.
9. Allow the City to utilize up to 70% of the 999 Third Street parcel (the exact layout to be reasonably negotiated so as to maximize the utility of each portion) retained by BioMarin for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on the parcel, so long as City is financially and legally responsible for (i) any improvements or modifications to the 999 Third Street parcel that the City deems necessary to implement the public parking and ancillary uses, subject to the approval of BioMarin, (ii) all liability related to the public’s use of parcel, (iii) all security, sanitation, janitorial service; and (iv) any other operational cost associated with the City’s public parking and ancillary uses.

**CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING**

You are invited to attend the Planning Commission hearing on the following project:

PROJECT: **999 3rd Street (BioMarin/Whistlestop/Eden Housing)** – Request for Planned Development (PD) Rezoning, Environmental and Design Review Permit , Master Use Permit and Sign Program amendment for the development of two 72-foot tall, four-story Research and Development buildings on a 3.05-acre parcel, currently developed as a vacant lot, and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 sq. ft. portion of the northwestern corner of the parcel; APN: 011-265-01; Second/Third Mixed Use (2/3 MUE) Zone; Shar Zamanpour, Applicant; BioMarin / CCCA, LLC, Owner; Downtown Activity Center neighborhood area; ED18-087, ZO18-003, ZC18-002, UP18-034, SP18-006, S18-001, DA19-001. Following the Planning Commission’s review and recommendation, the application will be considered by the City Council for final action at a future public hearing.

As required by state law, the project's potential environmental impacts have been assessed. A Draft Environmental Impact Report (DEIR) (SCH # 2019029046) was previously prepared and made available for public review on August 9, 2019, for a 45-day public review and comment period concluding on September 23, 2019 at the Planning Commission meeting. A Final Environmental Impact Report/Response to comments (FEIR), which meets the provisions of the California Environmental Quality Act will be available for review on Friday, January 10, 2020. The FEIR (along with the DEIR) will be available on the City’s web site at <https://www.cityofsanrafael.org/9993rd>. A limited number of copies of the FEIR will be available for review at the City of San Rafael Community Development Department (1400 Fifth Avenue) and the San Rafael Library (1100 E Street).

HEARING DATE: **Tuesday, January 28, 2020 at 7:00 P.M.**

LOCATION: San Rafael City Hall – City Council Chambers
1400 Fifth Avenue at "D" Street
San Rafael, California

WHAT WILL HAPPEN: You can comment on the project. The Planning Commission will consider all public testimony and decide whether to recommend to the City Council: 1) certification of the EIR, 2) adoption approval of mitigation monitoring of statement of overriding considerations; and 3) approval of project entitlements. Public notice of the future City Council hearing will be provided 15 days in advance of the hearing once scheduled.

IF YOU CANNOT ATTEND: You may send written correspondence by email to the address above, or by post to the Community Development Department, Planning Division, City of San Rafael, 1400 5th Avenue, San Rafael, CA 94915-1560. You may also hand deliver it prior to the action date.

FOR MORE INFORMATION: Contact **Sean Kennings**, the Project Planner at **(415) 533-2111** or **sean@lakassociates.com**. You may also come to the Planning Division office, located in City Hall, 1400 Fifth Avenue, to look at the file for the proposed project. The office is open from 8:30 a.m. to 4:30 p.m. on Monday, Tuesday and Thursday and 8:30 a.m. to 1:30 p.m. on, Wednesday and Friday. You may also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL PLANNING COMMISSION

/s/ Paul A Jensen

Paul A Jensen

Community Development Director

At the above time and place, all correspondence received will be noted and all interested parties will be heard. If you challenge in court the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered at, or prior to, the above referenced public hearing (Government Code Section 65009 (b) (2)).

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

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

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