

**RESOLUTION NO. 14775**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING AMENDMENTS (GPA18-001) TO THE SAN RAFAEL GENERAL PLAN 2020, INCLUDING: A) AMENDING LAND USE ELEMENT EXHIBIT 6: FLOOR AREA RATIO (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 3<sup>rd</sup> 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), and Development Agreement (DA19-001) for the 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 3<sup>rd</sup> Street; and

**WHEREAS**, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3<sup>rd</sup> 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 3<sup>rd</sup> 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 of the BioMarin project, totaling 207,000 sq. ft., 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 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 August 2019, which included a 45-day public review process and Planning Commission public hearing for commenting 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 FAR modification and Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in 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; and

**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, adopted by the City Council 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 City Council has reviewed and weighed the proposed project benefits against the unavoidable, adverse environmental effects. 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 City Council adopted the CEQA Findings of Fact, an exception to the Circulation Element Policy C-5 (*Level of Service*), and a Statement of Overriding Considerations, which supports approval of the proposed project and the accompanying General Plan Amendment application (GPA18-001). This separate resolution also approves 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 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 and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-18-006); and

**WHEREAS**, on February 28, 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 to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

**WHEREAS**, on March 23, 2020, the City Council held a duly noticed public hearing to review the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project and considered all oral and written public testimony and the written report of the Community Development Department; and

**WHEREAS**, on March 23, 2020, by adoption of two separate resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); 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 City Council approves 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 3<sup>rd</sup> Street 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 **Exhibit A** attached and incorporated herein by reference.

Modify **Exhibit 10** in the Land Use Element to create a new Height Bonus for 999 3<sup>rd</sup> 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 **Exhibit B** attached and incorporated herein by reference.

This General Plan Amendment 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 City Council 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 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 23<sup>rd</sup> of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS: Bushey, Colin, Gamblin, McCullough & Mayor Phillips

NOES: COUNCILMEMBERS: None

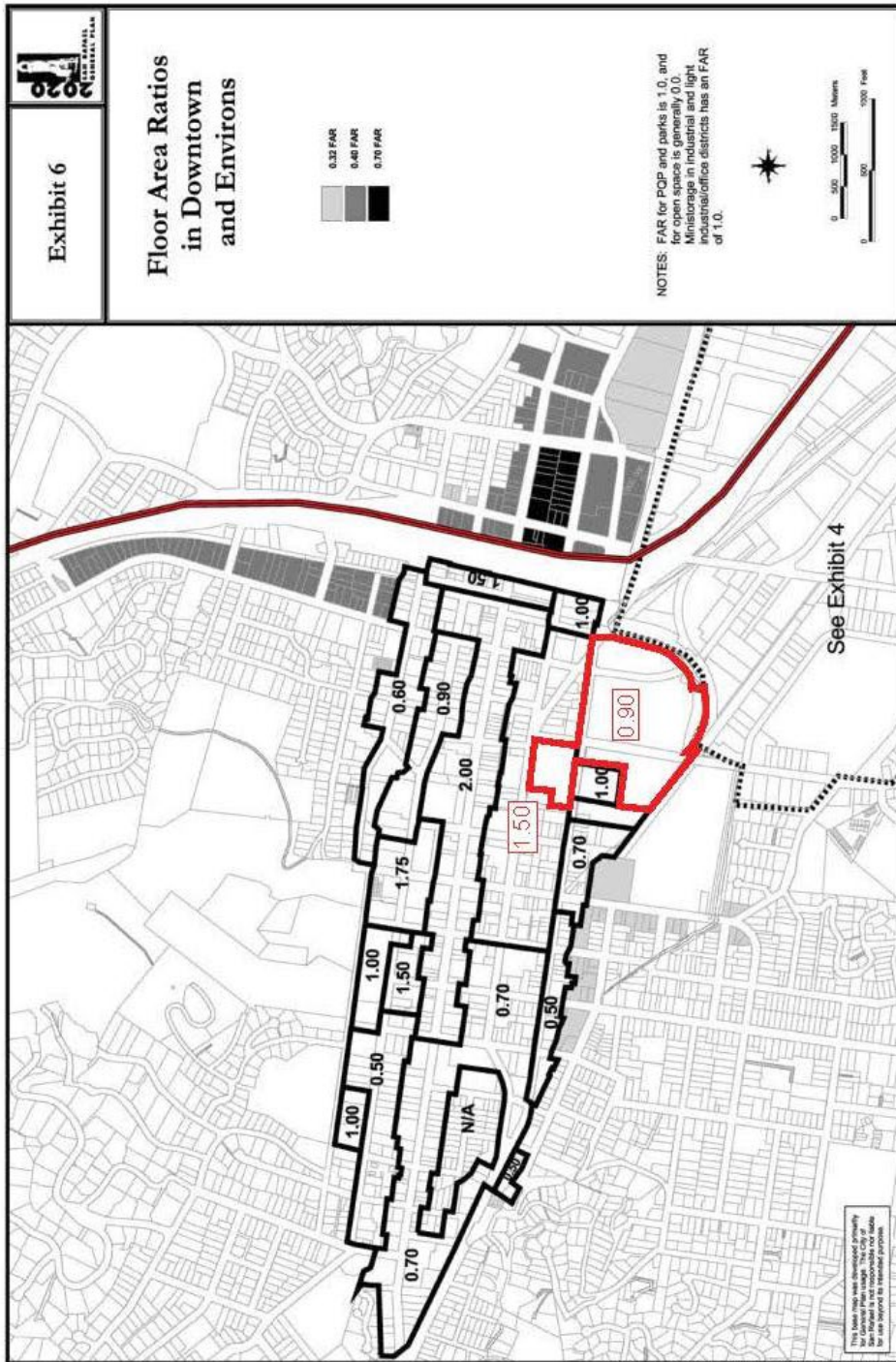
ABSENT: COUNCILMEMBERS: None



LINDSAY LARA, City Clerk

# Attachment 3

## Exhibit A Amendment to General Plan 2020 Exhibit 6 – FAR



**Attachment 3**

**Exhibit B  
Amendment to General Plan 2020 Exhibit 10 – Height Bonuses**

Note: New language illustrated with underline text

<b>Location</b>	<b>Maximum Height Bonus</b>	<b>Amenity (May provide one or more of the following)</b>
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)