

RESOLUTION NO. 14776

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING 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 STREET 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 August of 2016, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing submitted to the City of San Rafael Community Development Department a Pre-Application to allow the City to conduct a technical review by City departments of major code requirements applicable to a proposal by, to develop a 133,099 sq. ft. parcel at 999 3rd Street. Based upon City staff's comments, BioMarin modified its project by reducing the requested total development square feet on 999 3rd Street as well as a requested height bonus; and

WHEREAS, BioMarin and Whistlestop submitted an application for Conceptual Design Review of their proposed development, 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, in conjunction with Whistlestop/Eden Housing, submitted project applications to the 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 (the "Project"); 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, 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 public Study Session on May 14, 2019 to understand and evaluate the development program and entitlement requests, and was generally supportive of the project; and

WHEREAS, on June 18, 2019, the San Rafael Design Review Board (DRB) held a duly noticed public meeting to formally review the Project plans and found that the Project design was generally appropriate, including the massing, color, and materials, and continued the Project for a consent calendar review, subject to minor revisions to landscaping and façade treatments; 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). Following 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 to review 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 FEIR/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, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and found that the FEIR complies with the requirement of CEQA; 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 accepted all oral and written public testimony and the written report of the Community Development Department Planning staff; and

WHEREAS, on January 28, 2020, the Planning Commission, through the adoption of separate resolutions, took the following actions:

- a) Adopted Resolution No. 20-01 (5-0, 2 absent), recommending to the City Council certifying the 999 3rd Street BioMarin/Whistlestop/Eden Housing Project Final Environmental Impact Report (FEIR).

- b) Adopted Resolution No. 20-02 (5-0, 2 absent), recommending to the City Council adoption of CEQA Findings, a Statement of Overriding Considerations, and approval of a Mitigation Monitoring and Reporting Program (MMRP).
- c) Adopted Resolution No. 20-03 (5-0, 2 absent), recommending to the City Council approval of General Plan Amendments to establish text and map amendments to: 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd Street site; and 2) amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site (GPA18-001).
- d) Adopted Resolution No. 20-04 (5-0, 2 absent), recommending to the City Council to approve a Zoning Text Amendment to establish a new height bonus provision for the BioMarin portion of the site for projects which meet specific criteria (ZO18-003).
- e) Adopted Resolution No. 20-05 (5-0, 2 absent), recommending to the City Council approval of a Planned Development (PD) Rezoning to incorporate the BioMarin portion of the 999 3rd Street property into the existing SRCC PD District and update the PD with land use regulations and development standards (ZC18-002).
- f) Adopted Resolution No. 20-06 (5-0, 2 absent), recommending to the City Council approval of 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. (DA19-001).
- g) Adopted Resolution No. 20-07 (5-0, 2 absent), 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) for the 999 3rd Street BioMarin/Whistlestop/Eden Housing Project.

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 Project 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, on March 23, 2020, by adoption of a separate resolution, the City Council approved General Plan Amendments to establish text and map amendments to: 1) modify Exhibit 6 FAR Maps to add 0.90 FAR for SRCC site and the BioMarin portion of the 999 3rd Street site; and 2) amend Exhibit 10 – Height Bonuses – to create a new 20 ft. height bonus for this site; and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Ordinances, approved a Planned Development Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), and Development Agreement (DA19-001); 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 of the City of San Rafael hereby approves the Use Permit Amendment (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) based on the following findings:

**Findings for Use Permit
(UP18-034)**

In accordance with San Rafael Municipal Code (SRMC 14.22.080 (Findings), the City Council makes the following findings 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 a 118,099 sq.ft. portion of the subject property and a 70-foot tall, 6-story, 67-unit senior affordable residential building with 18,000 square feet of healthy aging campus on a 15,000 sq. ft. portion of the property, is in accord with the San Rafael *General Plan 2020*, the objectives of SRMC Title 14 (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 staff report for this resolution.

The discussion demonstrates that the Project is generally consistent with the following 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:
 - a. 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;
 - b. The proposed 207,000 sq. ft. buildings on the 118,099 square foot BioMarin portion of the lot at 999 3rd Street would be consistent with the maximum floor area ratio (FAR) limits, as modified through the General Plan amendment separately approved by the City Council, which established a blended FAR maximum of 0.90 for the 999 3rd St site and the San Rafael Corporate Center campus; and
 - c. 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 results in identifiable cost reductions.
- 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 an exemption identified in the City Council Resolution establishing the 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 City Council has, by separate resolution, made findings to grant an Exception to Level of Service standards to allow for the following Project inconsistencies with Circulation Element Policies C-5 (Traffic Level of Service Standards):
- 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 Certified FEIR for this Project 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 the certified FEIR identifies that 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 the FEIR 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.

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 .

- 4) 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.
- 5) 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 a greater density bonus than allowed by the State, 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;
- 6) 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. The development would 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.
 - 7) The Project's land uses would be consistent with the 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 Downtown San Rafael SMART rail station).
 - 8) The approval of the Project's land uses would be consistent with the PD-1936 District, as amended by the City Council's separate adoption of the PD Rezoning (ZC18-002), which would will 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 uses, 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 certified 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 approved by separate City Council Resolution to address impacts that could not be mitigated to less than significant levels. The Statement of Overriding Consideration concludes that the totality of the project benefits outweigh the impacts to traffic and level of service standards
 - 3) Additionally, the Project has been reviewed by Community Development Department, the Department of Public Works, and other appropriate City Departments, and the Planning Commission, and conditions have been applied to minimize potential impacts to the public health, safety and welfare.
- C. That the proposed uses, 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 has, by separate City Council resolution, been 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.

**Findings for Environmental and Design Review Permit
(ED18-087)**

In accordance with SRMC Section 14.25.090 (Findings), the City Council makes the following findings 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 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 included in the Planning Commission staff report. 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 SRMC 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) The 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 has been evaluated and demonstrates that they are adequate to support the parking demand from the proposed use.
- C. That the 999 3rd Street BioMarin/Whistlestop/EDEN Housing Project design minimizes adverse environmental impacts in that:

- 1) The City Council has certified the FEIR 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, adopted by separate City Council resolution, the City Council has conservatively found that the project will lead to significant and unavoidable impacts related to the potential consistency issue.
 - 3) The City Council has, however, 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. Per CEQA Guidelines Section 15063, in approving the application to amend the San Rafael General Plan 2020, the City Council has weighed the benefits of the Project against the unavoidable, adverse environmental (traffic) effects of the Project and has adopted a statement of overriding consideration. The City Council has made similar findings as required by San Rafael General Plan 2020 Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (*Exception Review*), to approve the Project, which exceeds the LOS standards, based on a finding that the Project's benefits to the community outweigh the Project's traffic impacts.
 - 4) By separate Resolution, the City Council has adopted a Statement of Overriding Considerations that concludes that the Project would not be detrimental to public health, welfare or safety, in spite of four potential impacts to land use and transportation associated with the development of the Project, balancing the economic, legal, social, and technological benefits of the Project against its unavoidable environmental impacts, finding that the Project's benefits outweigh its unavoidable adverse environmental effects.
- 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 and certified, 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 City Council has adopted a Statement of Overriding Considerations to allow the significant unavoidable impact, based on the public benefits of the Project. Further:
- 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) With the City Council's approval of a 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, the Project is 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 Section 15.03.070(Findings), the City Council makes the following findings 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 to 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 FEIR has been prepared and certified 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 Council has determined that the Project has balanced the economic, legal, social, and technological benefits of the proposed Project against its unavoidable environmental impacts, and that the Project benefits outweigh the unavoidable adverse environmental effects and are considered "acceptable." 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;

- 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 adopted 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 Council 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 Section 14.19.046 (Findings), the City Council makes the following findings 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 67 units as "affordable" or Below-Market-Rate (BMR) units, and one unit reserved for an on-site manager. All 67 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 concessions 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).
- 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. The applicant has complied with this requirement.
- F. Pursuant to SRMC Section 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 that section and necessary to qualify for the density bonus under that 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 California Government Code Section 65915. Given that the project proposes 100% of the 67 units as affordable for seniors, the City finds that the 100% affordability provides a significant public benefit.
- G. Based on the fact that the project provides all 67 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 City Council approves 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 of approval:

**Master Use Permit (UP18-034)
Conditions of Approval**

Community Development Department, Planning Division

1. This Master Use Permit for the San Rafael Corporate Center approves 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 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, amphitheaters, 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 at 755 Lindaro St) and an expansion to the Lincoln Ave parking garage as follows:
 - 1) Two new buildings at 999 3rd St are allowed up to a total of 207,000 sq. ft.
 - 2) The new building at 755 Lindaro St is allowed to be up to 73,396 sq. ft.
 - 3) A six story expansion to the southern end of the existing six (6) Lincoln Ave parking garage (composed of 256 spaces) and creation of 41 surface parking spaces around the base of the parking structure
4. The Master Use Permit approves the existing uses and building on the San Rafael Corporate Center 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 term of **10 years** from the effective date of the DA for the 999 Third St., 755 Lindaro St. and Lincoln Parking Structure expansion provided:
 - a) If BioMarin has not commenced construction of the first building at 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 #12.e and the improvements to the 2nd and Lindaro intersection per new obligation #12.h, 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;

- 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 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 approves a 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 of a 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 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).

- 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.
- c. The public use of this park area and conference/meeting space shall be subject to the conditions set forth below.

1. 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.

2. 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 sq. ft. 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 percent (5%) 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 the 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 have been or 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 shall be payable by \$100,000 each year (commencing on the first anniversary of the effective date of the Development Agreement) 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 shall be payable by \$125,000 each year (commencing on the first anniversary of the effective date of the Development Agreement) for 4 years.
 - e. Add Class II Bike lane along Lindero from 3rd to Anderson with completion of Phase I.
 - f. Provide a 6,000 sf Public Plaza "Front Porch" to follow the same rules as the park available for public use listed above.
 - g. Provide 3,500 sf Retail open to public during regular business hours.
 - h. Improve intersection of 2nd & Lindero 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 the 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 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 in the Transportation Impact Study for BioMarin 888 3rd St San Rafael Campus Expansion Revised.
 - 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.
 - d. This mitigation measure shall continue in perpetuity. After three consecutive years demonstrating successful 15% reduction, the monitoring shall be done every three years to ensure maintenance of the 15% reduction unless a violation occurs, or a new owner/lessor of the site applies. At that time, the annual monitoring shall start anew to ensure successful 15% reduction for three consecutive years. **(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 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. The previously approved Design Review Permit (ED14-097 and ED17-057) for the design of the new building at 755 Lindaro St, on a portion of the Lindaro St surface parking lot, is included as part of the Development Agreement and the term of the approvals of ED14-097 and ED17-057 are hereby extended to match the approval of this Design Review Permit, which shall be consistent with the term of the Development Agreement.
 - a. The design for 755 Lindaro St and the six story expansion of the Lincoln Ave parking garage shall remain as was approved by ED14-097-ED17-057 and all prior conditions of approval, except as modified by these approvals, shall remain in effect.

14. 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)
15. 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)
16. 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)
17. 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 the term of the Development Agreement, 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.
18. 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

19. 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)
20. The design of the front "porch" of the BioMarin Building at 999 3rd St shall be modified per the recommendation of the Design Review Board at its meeting of August 20, 2020, which included widening the entry staircase to the front porch public space to 10 feet. (Applies to BioMarin component of project)
21. The design of the Whistlestop/EDEN Housing building at 999 3rd St shall be modified per the recommendation of the Design Review Board at its meeting of August 20, 2020, which included: 1) returning the upper story bay window feature previously shown on the plans to the building facades; and 2) lower the window sill height on the windows proposed for the ground floor lobby area. (Applies to Whistlestop component of project)
22. 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).
23. 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
- 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.

24. 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)

25. 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)

26. 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)

27. 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)
28. 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)
29. 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)
30. 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)
31. 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)
32. 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)

33. SRMC Section 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.
34. All submitted building permit plan sets shall include a plan sheet incorporating these conditions of approval. (Applies to both components of the project)
35. 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)
36. 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

37. Frontage improvements shall include: street lighting, conduit for City facilities, accessible curb ramp pairs, drainage facilities, street trees, sidewalk, curb and gutter.
38. A separate photometric for street lighting shall be required in order to determine the precise locations for street lighting.
39. 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.
40. 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).

41. The site is a former Manufactured Gas Plant, which had undergone environmental remediation activities. Should the need arise, the generator (responsible party) of the previous contamination may require access to certain areas. It is our understanding that the applicant has assessed this aspect and designed accordingly. (Applies to both components of project).
42. Prior to issuance of a building permit, the applicant shall submit improvement plans and obtain an encroachment permit for any work within the Right-of-Way, from the Department of Public Works located at 111 Morphew St., for 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)
 - 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.
43. 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)

44. 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)
45. 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)
46. 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.
 - 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
47. 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)
48. 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)
49. 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.

50. 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)

51. 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

52. The design and construction of all site alterations shall comply with the California Building Code (CBC), California Plumbing Code (CPC), California Electrical Code (CEC), California Mechanical Code CCMC), California Fire Code (CFC), California Energy Code, California Green Building Standards Code and City of San Rafael Ordinances and Amendments that are in effect at the time of building permit submittal
53. 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
54. 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.

55. Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.
56. 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.
57. For buildings located four or more stories above grade plane, one stairwell must extend to the roof, unless the roof slope exceeds an angle of four vertical to 12 horizontal CBC 1011.12. (Applies to both components of project)
58. 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 $\frac{1}{2}$ inch stroke for residential occupancies and a minimum 6 inches in height with $\frac{1}{2}$ 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)
59. 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)
60. 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)
61. 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)
62. 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)
63. 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.
64. 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)
65. 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)
66. Walls separating purposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction. (Applies to both components of project)
67. All site signage as well as wall signs require a separate permit and application (excluding address numbering). (Applies to both components of project)
68. The Whistlestop/EDEN Housing building must apply for a new address for this building from the Building Division.
69. 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)
70. 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)
71. 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)
72. 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 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)
73. 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)
74. 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.

75. 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)

76. 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)

77. 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.

78. 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)

79. 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)

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

80. 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

81. 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)

82. 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)

83. 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)

84. 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)

85. 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

86. 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)

87. 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)

88. 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):

- 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)
89. 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)
90. 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)
91. Knox Key Boxes are required at the primary point of first response to the building. (Applies to both components of project).
92. 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)

93. On site fire hydrants could be required. (Applies to both components of project)
94. 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)
95. 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)
96. 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)
97. Building address numbers and directories must be to Fire Department standards. (Applies to both components of project)
98. Hazardous Materials Placard shall be installed in accordance with NFPA 704. (Applies to both components of project)
99. Provide a Hazardous Materials Management Plan to be submitted to Marin County Department of Public Works, CUPA (Applies to both components of project)
100. 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

101. 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)

102. 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)
103. 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)
104. 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

105. 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)
106. 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

107. 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)
108. 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)
109. 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

110. Should an archaeological deposit be encountered during project subsurface construction activities, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for

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

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

“The subsurface of the construction site may be sensitive for Native American archaeological deposits. If archaeological deposits are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be redirected and a qualified archaeologist contacted to assess the situation, determine if the deposit qualifies as a historical resource, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any archaeological materials. Archaeological deposits can include shellfish remains; bones; flakes of, and tools made from, obsidian, chert, and basalt; and mortars and pestles. Contractor acknowledges and understands that excavation or removal of archaeological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.” **(MM CULT-1/CULT-2)**
(Applies to both components of project)

111. 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.” (**MM GEO-3**): (Applies to both components of project)

112. 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.
113. 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)
114. 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)

115. 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, 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)
116. 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)
117. 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)
118. 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. **(MM NOISE-2)** (BioMarin portion of the project)

Prior to Occupancy

Community Development Department, Planning Division

119. 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)
120. 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)
121. 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)
122. All ground- and rooftop-mounted mechanical equipment shall be fully screened from public view. (Applies to both components of project)
123. 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

124. 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)
125. 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)
126. 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

127. 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 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 **the term of the Development Agreement**, 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 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 **the term of the Development Agreement**, 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

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 23rd 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