



AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, AUGUST 2, 2021

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be held virtually using Zoom and is being streamed to YouTube at www.youtube.com/cityofsanrafael.

How to participate in the meeting:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to city.clerk@cityofsanrafael.org.
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

Any member of the public who needs accommodations should contact the City Clerk (email city.clerk@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

CLOSED SESSION AT 6:30 P.M.

Watch on Webinar: <https://tinyurl.com/CS-2021-08-02>

Listen by phone: (669) 900-9128

ID: 874-3622-7711#

OPEN SESSION

1. Mayor Kate to announce Closed Session items.

CLOSED SESSION

2. Closed Session:
 - a. Conference with Legal Counsel—Existing Litigation
Government Code Section 54956.9(d)(1)
Claim of J. Kelly Howard

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-08-02>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 817-3692-0337#

OPEN TIME FOR PUBLIC EXPRESSION

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines

that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER’S REPORT:

3. City Manager’s Report:

COUNCILMEMBER REPORTS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

4. Councilmember Reports:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council’s vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

5. Consent Calendar Items:

a. Approval of Minutes

Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, July 19, 2021 and Special Meeting of Thursday, July 15, 2021 (CC)

Recommended Action – Approve minutes as submitted

b. Temporary Street Closure to Support Vaccination Efforts in the Canal Neighborhood

Resolution Authorizing Saturday Street Closures to Support Canal Alliance’s Effort to Provide COVID-19 Vaccinations (PW)

Recommended Action – Adopt Resolution

c. Designation of Voting Delegate for the League of California Cities Annual Conference & Expo

Designation of Councilmember Eli Hill as Voting Delegate for the 2021 League of California Cities Annual Conference & Expo in Sacramento – September 22-24, 2021 (CC)

Recommended Action – Approve the designation of Councilmember Eli Hill as voting delegate

PUBLIC HEARINGS

6. Public Hearings:

a. San Rafael General Plan 2040, Downtown Precise Plan and Zoning Ordinances

i. Resolution Adopting Findings of Fact and a Statement of Overriding Consideration for General Plan 2040 and the Downtown Precise Plan (CD)

Recommended Action – Adopt Resolution

- ii. Resolution Adopting San Rafael General Plan 2040 (CD)
Recommended Action – Adopt Resolution

- iii. Resolution Adopting Downtown Precise Plan (CD)
Recommended Action – Adopt Resolution

- iv. Consideration of An Ordinance Amending the San Rafael Municipal Code Amending Title 14 (Zoning Ordinance) and Amending the Zoning Map of the San Rafael Municipal Code to: A) Repeal the Existing Downtown Zoning Districts, and Replace with Downtown Mixed-Use (DMU) District; B) Amend, Delete and Replace Certain Zoning Provisions Applicable to Downtown San Rafael; and C) Amend, Delete and Replace Other Zoning Regulations to Comply with State Law and Incorporate Other Minor Changes, Corrections and Updates (CD)
Recommended Action – Pass Ordinance to print

- v. Consideration of An Ordinance Adopting the Downtown San Rafael Precise Plan – Chapter 9 Downtown Form-Based Code to Serve as the Primary Regulatory City Zoning Code for Downtown San Rafael (CD)
Recommended Action – Pass Ordinance to print

b. **Amendments to the San Rafael Municipal Code Regarding Parks and Recreation, Parades, Assemblies, Expressive Activity and Other Activity on Public Property**

Consideration of An Ordinance Amending the San Rafael Municipal Code to Change the Name of Title 19 from “Open Space” to “Public Parks, Property, and Open Space”; to Repeal Chapter 8.10 (Parks and Recreation) and Add a New Chapter 19.20 (Parks and Recreation) to Title 19; to Repeal Chapter 5.70 (Meetings Assemblies and Parades In Public Places) of Title 5 and Add a New Chapter 19.30 (Assemblies and Parades In Public Streets and Rights-Of-Way) to Title 19; to Add New Chapter 19.40 (Expressive Activities In Public Places) to Title 19; to Add New Section 5.60.054 to Chapter 5.60 (Parking Regulations); and Finding the Ordinance Exempt from the California Environmental Quality Act (CA/LR)

Recommended Action – Pass Ordinance to print

c. **Spinnaker Point Drive Parking Modification Project**

Resolution Adopting the Mitigated Negative Declaration and Associated Mitigation Monitoring and Reporting Program for the Spinnaker Point Drive Parking Modification Project, City Project No. 11363 (PW)

Recommended Action – Adopt Resolution

SAN RAFAEL SUCCESSOR AGENCY:

- 1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.



MINUTES

SAN RAFAEL CITY COUNCIL – MONDAY, JULY 19, 2021

CORONAVIRUS (COVID-19) ADVISORY NOTICE

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Present: Mayor Kate
Vice Mayor Bushey
Councilmember Hill
Councilmember Kertz

Absent: Councilmember Llorens Gulati

Also Present: City Manager Jim Schutz
Assistant City Attorney Lisa Goldfien
City Clerk Lindsay Lara

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-07-19>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 899-2635-9885#

Mayor Kate called the meeting to order at 7:02 p.m. She provided opening remarks, which included an update on returning to in-person Council meetings and a land acknowledgement.

Mayor Kate invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present, except for Councilmember Llorens Gulati.

City Clerk Lindsay Lara announced the process for Spanish interpretation tonight. She informed the community that the meeting would be streamed live to YouTube and through Zoom and members of the public would provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone or through Zoom.

OPEN SESSION

1. None.

CLOSED SESSION

2. Closed Session: – None.

OPEN TIME FOR PUBLIC EXPRESSION

Correspondence in real-time through Zoom or on telephone

- Jason, addressed the City Council regarding homelessness.
- Sunny Lee, addressed the City Council regarding proposed library relocation.
- Eva Chrysanthe, addressed the City Council regarding city-sanctioned homeless encampment.

CITY MANAGER'S REPORT:

3. City Manager's Report:

City Manager Jim Schutz announced:

- Canal Public Mural Project/Future Terra Linda Public Art Project update
- Service Support Area update
- Drought update
- Marin County Job Fair on August 3rd
- Farmers Market every Thursday 5-8 p.m. and Dining Under the Lights every Thursday & Friday 5-9 p.m.

COUNCILMEMBER REPORTS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

4. Councilmember Reports:

- Councilmember Bushey reported on a Central Marin Sanitation Agency meeting.
- Councilmember Kertz reported on Economic Development Subcommittee, Job Fair/San Rafael Age-Friendly, Service Support Area/Homelessness, Boards & Commissions Interviews and Marin Wildfire Prevention Authority (MWPA) meetings.
- Councilmember Hill provided a drought update.
- Mayor Kate reported on a SMART meeting and Boards & Commissions Interviews.

City Clerk Lindsay Lara gave an update on the recent Boards & Commissions appointments.

CONSENT CALENDAR:

Mayor Kate invited public comment; however, there was none.

Councilmember Kertz moved and Councilmember Hill seconded to approve the Consent Calendar.

5. Consent Calendar Items:

- a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular Meeting of Tuesday, July 6, 2021 (CC)

Approved minutes as submitted

- b. **Vacancies on San Rafael Boards and Commissions
Announcement of Vacancies on San Rafael Pickleweed Advisory Committee and the
Special Library Parcel Tax Oversight Committee (CC)**

Received and filed

- c. **City Quarterly Investment Report
Acceptance of City of San Rafael Quarterly Investment Report for the Quarter Ending
June 30, 2021 (Fin)**

Accepted report

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

OTHER AGENDA ITEMS

6. Other Agenda Items:

- a. **[2021-2022 City Council Redistricting Process](#)
Informational Report on Upcoming City Council Redistricting Process Following
Release of 2020 United States Census Data, and Approval of Tentative Timeline for
Adoption of New Districts by April 17, 2022 (CA)**

Lisa Goldfien, Assistant City Attorney and Chris Skinnell, Nielsen Merksamer presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: Eva Chrysanthe, Sunny Lee, Kiki La Porta, Sustainable San Rafael

Staff, including Kristen Parks, National Demographics Corporation responded to public comment.

Councilmembers provided comments.

Councilmember Kertz moved and Councilmember Bushey seconded to accept the report.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

PUBLIC HEARINGS

7. Public Hearings:

- a. **San Rafael General Plan 2040 and Downtown Precise Plan**
 - i. **Resolution Certifying the Final Environmental Impact Report (FEIR) (SCH #2019039167) Prepared for the San Rafael General Plan 2040 and Downtown San Rafael Precise Plan (CD);**
 - ii. **Report on the Upcoming Review of the San Rafael General Plan 2040 Document and the Downtown Precise Plan (CD)**

Alicia Giudice, Community Development Director introduced Barry Miller, General Plan 2040 Consultant who presented the Staff Report.

Councilmembers provided comments.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: David Moller, Marin/Sonoma Building Electrification Squad, Bill Carney, Sustainable San Rafael, Damian Morgan, Eva Chrysanthe, Arlin Benevides, Multicultural Center of Marin, Kate Powers, Marin Conservation League, KiKi La Porta, Sustainable Marin/League of Women Voters, Annika Osborn Cool the Earth/Drive Clean Bay Area, Belle Cole, Organization for Action Marin (OFA), Lindsay Smith, Jason Sarris, Barbara Salzman, Marin Audubon Society, Sunny Lee

Staff responded to public comment.

Staff responded to comments and questions from Councilmembers.

Councilmember Hill moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: Llorens Gulati

Resolution 14946 - Resolution Certifying the Final Environmental Impact Report (FEIR) (SCH #2019039167) Prepared for the San Rafael General Plan 2040 and Downtown San Rafael Precise Plan (CD)

Councilmember Bushey moved and Councilmember Hill seconded to accept the report.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Accepted Report

b. [Request for Modification of Affordable Housing Requirements](#)

Resolution Modifying Conditions of Approval of Environmental and Design Review (ED18-100), Use Permit (UP18-039) and Tentative Map (TS18-006) for the Merrydale Townhomes Located at 350 Merrydale Rd/3833 Redwood Hwy to Allow Fulfillment of the Affordable Housing Requirement in Accordance with City Council Resolution 14890 (ZC19-002) (CD)

Alicia Giudice, Community Development Director introduced Ethan Guy, Consultant who presented the staff report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: Robert Upton, Campus Properties, Name withheld, Bill Carney, Sustainable San Rafael, Michael Hooper, Campus Properties

Applicant Robert Upton, Campus Properties responded to public comment.

Staff responded to comments and questions from Councilmembers.

Councilmember Bushey moved and Councilmember Hill seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14947 - Resolution Modifying Conditions of Approval of Environmental and Design Review (ED18-100), Use Permit (UP18-039) and Tentative Map (TS18-006) for the Merrydale Townhomes Located at 350 Merrydale Rd/3833 Redwood Hwy to Allow Fulfillment of the Affordable Housing Requirement in Accordance with City Council Resolution 14890 (ZC19-002)

c. [Request to Waive the Building Permit Fees](#)

Resolution Denying the Request for Waiver of Building Permit Fees for Vivalon Healthy Aging Affordable Housing Project at 999 Third Street (Previously Whistlestop) (APN: 011-265-01) (CD)

Alicia Giudice, Community Development Director introduced Don Jeppson, Chief Building Official who presented the staff report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

Speakers: Bob Pendoley, Marin Environmental Housing Collaborative (MEHC), Anne Grey, Vivalon, Tamar, Eden Housing, Bill Carney, Sustainable San Rafael

Staff responded to questions from Councilmembers.

Councilmembers provided comments.

Staff provided comments.

Councilmember Bushey moved and Councilmember Hill seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: Llorens Gulati

Resolution 14948 - Resolution Denying the Request for Waiver of Building Permit Fees for Vivalon Healthy Aging Affordable Housing Project at 999 Third Street (Previously Whistlestop) (APN: 011-265-01)

OTHER AGENDA ITEMS (continued)

8. Other Agenda Items:

a. [Approval of the New Memorandum of Understanding with AFSCME/Local 1 & Furlough Reimbursement Side Letter](#)

Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for AFSCME / LOCAL 1 (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter (HR)

Sylvia Gonzalez, HR Operations Manager presented the Staff Report. She announced that she would be combining the Staff Reports for Items 8.a and 8.b.

Mayor Kate invited public comment; however, there was none.

Councilmember Kertz moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: Llorens Gulati

Resolution 14949 - Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for AFSCME / LOCAL 1 (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter

Councilmember Kertz moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14950 - Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for Western Council of Engineers (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter

b. **Approval of the New Memorandum of Understanding with Western Council of Engineers (WCE) & Furlough Reimbursement Side Letter**

Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for Western Council of Engineers (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter (HR)

Recommended Action – Adopt Resolution

The Staff Report for Item 8.b Approval of the New Memorandum of Understanding with Western Council of Engineers (WCE) & Furlough Reimbursement Side Letter was combined (and presented) with Item 8.a. See Item 8.a Approval of the New Memorandum of Understanding with AFSCME/Local 1 & Furlough Reimbursement Side Letter.

c. **Approval of the New Memorandum of Understanding with SEIU Local 1021 & Furlough Reimbursement Side Letter**

Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for SEIU Local 1021 (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter (HR)

Sylvia Gonzalez, HR Operations Manager presented the Staff Report.

Mayor Kate invited public comment; however, there was none.

Councilmember Hill moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14951 - Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for SEIU Local 1021 (July 1, 2021 Through June 30, 2024) and Furlough Reimbursement Side Letter

d. **Memorandum of Understanding Between the City of San Rafael and San Rafael Fire Chief Officers' Association**

Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for San Rafael Fire Chief Officers' Association (July 1, 2021 Through June 30, 2024) (HR)

Sylvia Gonzalez, HR Operations Manager presented the Staff Report.

Mayor Kate invited public comment; however, there was none.

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14952 - Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for San Rafael Fire Chief Officers' Association (July 1, 2021 Through June 30, 2024)

e. **Memorandum of Understanding Between the City of San Rafael and San Rafael Police Mid-Management Association**

Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for San Rafael Police Mid-Management Association (July 1, 2021 Through June 30, 2024) (HR)

Sylvia Gonzalez, HR Operations Manager presented the Staff Report.

Mayor Kate invited public comment; however, there was none.

Councilmember Kertz moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14953 - Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for San Rafael Police Mid-Management Association (July 1, 2021 Through June 30, 2024)

f. **Approval of the New Resolution that Authorizes Compensation for Executive Management Employees**

Resolution Establishing the Compensation and Working Conditions for Unrepresented Executive Management Employees (July 1, 2021 through June 30, 2024) and FY 20-21 Furlough Repayment (HR)

Sylvia Gonzalez, HR Operations Manager presented the Staff Report. Sylvia Gonzalez, HR Operations Manager presented the Staff Report. She announced that she would be combining the Staff Reports for Items 8.f, 8.g and 8.h.

Mayor Kate invited public comment; however, there was none.

Councilmember Kertz moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14954 - Resolution Establishing the Compensation and Working Conditions for Unrepresented Executive Management Employees (July 1, 2021 through June 30, 2024) and FY 20-21 Furlough Repayment

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14955 - Resolution Establishing the Compensation and Working Conditions for Unrepresented Mid-Management Employees (July 1, 2021 through June 30, 2024) and FY 20-21 Furlough Repayment

Councilmember Hill moved and Councilmember Bushey seconded to adopt the resolution.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Resolution 14956 - Resolution Establishing the Compensation and Working Conditions for the Elected City Clerk and Elected Part-Time City Attorney (July 1, 2021 Through June 30, 2024) and FY 20-21 Furlough Repayment

g. **Approval of the New Resolution that Authorizes Compensation for Mid-Management Employees**

Resolution Establishing the Compensation and Working Conditions for Unrepresented Mid-Management Employees (July 1, 2021 through June 30, 2024) and FY 20-21 Furlough Repayment (HR)

Recommended Action – Adopt Resolution

The Staff Report for Item 8.g Approval of the New Resolution that Authorizes Compensation for Mid-Management Employees was combined (and presented) with Item 8.f. See Item 8.f Approval of the New Resolution that Authorizes Compensation for Executive Management Employees.

h. **Approval of the New Salary Resolution that Authorizes Compensation for Elected City Clerk and Part-Time City Attorney**

Resolution Establishing the Compensation and Working Conditions for the Elected City Clerk and Elected Part-Time City Attorney (July 1, 2021 Through June 30, 2024) and FY 20-21 Furlough Repayment (HR)

Recommended Action – Adopt Resolution

The Staff Report for Item 8.h Approval of the New Salary Resolution that Authorizes Compensation for Elected City Clerk and Part-Time City Attorney was combined (and presented) with Item 8.f. See Item 8.f Approval of the New Resolution that Authorizes Compensation for Executive Management Employees.

SAN RAFAEL SUCCESSOR AGENCY:

Chair Kate invited public comment; however, there was none.

Member Bushey moved and Member Kertz seconded to approve the Consent Calendar.

1. Consent Calendar:

a. **Successor Agency Quarterly Investment Report**

Acceptance of Successor Agency Quarterly Investment Report for the Quarter Ending June 30, 2021 (Fin)

Accepted report

AYES: Members: Bushey, Hill, Kertz & Chair Kate

NOES: Members: None

ABSENT: Members: Llorens Gulati

ADJOURNMENT:

Mayor Kate adjourned the meeting at 11:12 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2021

KATE COLIN, Mayor

DRAFT

MINUTES



**SAN RAFAEL CITY COUNCIL SPECIAL MEETING
THURSDAY, JULY 15, 2021 AT 5:00 P.M.**

Watch Webinar: <https://tinyurl.com/SPCC-2021-07-15>

**Listen by phone: (669) 900-9128,
ID: 856-7839-2610#**

Present: Mayor Kate
Vice Mayor Bushey
Councilmember Hill
Councilmember Kertz

Absent: Councilmember Llorens Gulati

Also Present: City Manager Jim Schutz
City Clerk Lindsay Lara

Mayor Kate called the meeting to order at 5:01 p.m.

Mayor Kate invited public comment; however, there was none.

1. Design Review Board Interviews

Interview Applicants and Make an Appointment to Fill Two Four-Year Terms to the End of June 2025 on the Design Review Board Due to the Expiration of Terms of Jeff Kent and Samina Saude (CC)

Recommended Action – Appoint two applicants

The City Council interviewed the following applicants: Barry Wenger, Jeff Kent, Sharon Kovalsky, Sharon Leckie, Tom Van Pelt, Zachary Meade. Braydan Young and Mason Bondi withdrew their applications and Paul DeMartini moved outside of city limits since his application was submitted, making him ineligible.

Councilmember Bushey moved and Councilmember Kertz seconded to reappoint Jeff Kent to the Design Review Board.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Motion passed: 4-0

Councilmember Bushey moved and Councilmember Kertz seconded to appoint Sharon Kovalsky to the Design Review Board.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Motion passed: 4-0

2. **Planning Commission Interviews**

Interview Applicants and Make an Appointment to Fill One Four-Year Term to the End of June 2025 on the Planning Commission Due to the Expiration of Term of Jon Previtali (CC)

Recommended Action – Appoint one applicant

The City Council interviewed the following applicants: Jon Previtali, Sam Rodriguez and Sharon Leckie.

Councilmember Bushey moved and Councilmember Kertz seconded to reappoint Jon Previtali to the Planning Commission.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Motion passed: 4-0

3. **Fire Commission Interviews**

Interview Applicants and Make an Appointment to Fill One Four-Year Term to the End of March 2025 on the Fire Commission Due to the Expiration of Term of Nadine Atieh Hade (CC)

Recommended Action – Appoint one applicant

The City Council interviewed the following applicants: Nadine Atieh Hade and Sam Rodriguez.

Councilmember Bushey moved and Councilmember Kertz seconded to reappoint Nadine Atieh Hade to the Fire Commission.

AYES: Councilmembers: Bushey, Hill, Kertz & Mayor Kate
NOES: Councilmembers: None
ABSENT: Councilmembers: Llorens Gulati

Motion passed: 4-0

4. **Board of Library Trustees Interviews**

Interview Applicants and Make Appointments to Fill Two Four-Year Terms to the End of April 2025 on the Board of Library Trustees Due to the Expiration of Terms of Robert Ross and Jaimi Cortes (CC)

Recommended Action – Appoint two applicants

The City Council interviewed the following applicants: Alexander Vahdat, Jaimi Cortes, Reilly Urban and Arlene Sukolsky. Braydan Young withdrew his application.

Councilmember Bushey moved and Councilmember Kertz seconded to reappoint Jaimi Cortes and to appoint Alex Vahdat to the Board of Library Trustees.

AYES:	Councilmembers:	Bushey, Hill, Kertz & Mayor Kate
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Llorens Gulati

Motion passed: 4-0

ADJOURNMENT:

Mayor Kate adjourned the meeting at 8:46 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2021

KATE COLIN, Mayor



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works Department

Prepared by: Bill Guerin, Director
Department of Public Works

City Manager Approval: 

TOPIC: TEMPORARY STREET CLOSURE TO SUPPORT VACCINATION EFFORTS IN THE CANAL NEIGHBORHOOD

SUBJECT: RESOLUTION AUTHORIZING SATURDAY STREET CLOSURES TO SUPPORT CANAL ALLIANCE'S EFFORT TO PROVIDE COVID-19 VACCINATIONS

RECOMMENDATION: Adopt the Resolution authorizing Saturday closures of Alto Street to support Canal Alliance's effort to provide Covid-19 vaccinations at the discretion of the City Manager on various Saturdays until the end of 2021.

BACKGROUND:

Coronavirus (COVID-19) has had a dramatic impact on the residents of San Rafael and especially essential workers and residents that live in the Canal neighborhood. Canal Alliance sought approval to close Alto Street on several Saturdays through mid-July 2021 to conduct free vaccinations. The program vaccinated more than 2,000 people.

ANALYSIS:

Canal Alliance would like to continue its vaccination program through the end of 2021. The Marin County Department of Public Health would support the vaccination effort by providing a mobile vaccination unit and other logistical support. In order to effectively administer the COVID-19 vaccine, Canal Alliance is requesting approval to close a portion of Alto Street, a one block street next to Canal Alliance's office, from Larkspur Street to mid-block, on several Saturdays between 6:30 am and 3 pm. The partial street closure will allow people seeking vaccinations to drive or walk up to the medical professionals administering the vaccine. Other businesses on this short street support the vaccination effort and can access their properties from the Belvedere Street end of Alto Street.

To maximize flexibility, staff is seeking approval to close Alto Street every Saturday to accommodate Canal Alliance's schedule through the end of 2021. Staff requests that the City Manager be granted authority to close the street on Saturdays at their discretion.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

Temporary road closures require that the City Council adopt a resolution finding that the closing is necessary for the safety and protection of persons using the road during the closing, per Vehicle Code section 21101(e) which states:

*“(e) Temporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designates **by resolution**, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.”*

Department of Public Works staff will support the street closure by providing closure signage and traffic control support. The Police Department and Fire Department may provide ancillary support as well.

STREET TO BE CLOSED:

Alto Street from its intersection with Larkspur Street to mid-block at approximately the entrance to the Johnson and Daly Moving Company warehouse entrance on various Saturdays through the end of 2021. Public walk-up access to businesses will be maintained during event hours.

COMMUNITY OUTREACH:

Canal Alliance is advertising the opportunity to be vaccinated through their public outreach network. Canal Alliance also sought and has received the support of other nearby businesses for this closure.

FISCAL IMPACT:

The City will provide in-kind services, such as “no parking” signage and traffic control support and advice.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the resolution.

ATTACHMENTS:

1. Resolution

RESOLUTION NO.

**RESOLUTION AUTHORIZING SATURDAY STREET CLOSURES TO SUPPORT
CANAL ALLIANCE'S EFFORT TO PROVIDE COVID-19 VACCINATIONS**

WHEREAS, the Coronavirus (COVID-19) has had a dramatic impact on the residents of San Rafael and especially essential workers and other people who live in the Canal neighborhood of the City; and

WHEREAS, Canal Alliance, with the support of the Marin County Department of Public Health, has the capability to administer COVID-19 vaccinations to nearby residents who wish to receive it: and

WHEREAS, Canal Alliance has requested that the City allow the temporary closure of a portion of Alto Street from Larkspur Street to mid-block on various Saturdays through the end of 2021 to support their vaccination effort; and

WHEREAS, after reviewing the request, City staff has determined and recommended that, in the interest of the safety and welfare of pedestrian and vehicular traffic in the area, that Alto Street should be temporarily closed to through traffic on various Saturdays from 6:30 am to 3 pm through the end of 2021 for scheduled vaccination efforts; and

WHEREAS, for maximum flexibility in scheduling, Staff requests that the City Council delegate authority to the City Manager to approve the specific scheduling of closures as they determine necessary and appropriate;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL HEREBY
RESOLVES AS FOLLOWS:**

1. That all of the above findings are true and correct.
2. That, pursuant to the authority of Vehicle Code section 21101(e), for the safety and protection of persons, both pedestrians and vehicle drivers, the City Council hereby authorizes the temporary closure of Alto Street from Larkspur Street to mid-block for the dates and times described above, subject to the approval of specific closure dates by the City Manager.

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 said City held on Monday, the 2nd day of August 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk's Office

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: _____

A handwritten signature in blue ink, appearing to be 'AS', written over a horizontal line.

TOPIC: DESIGNATION OF VOTING DELEGATE FOR THE LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE & EXPO

SUBJECT: DESIGNATION OF COUNCILMEMBER ELI HILL AS VOTING DELEGATE FOR THE 2021 LEAGUE OF CALIFORNIA CITIES ANNUAL CONFERENCE & EXPO IN SACRAMENTO – SEPTEMBER 22-24, 2021

RECOMMENDATION

It is recommended that the City Council designate Councilmember Eli Hill as voting delegate for the League of California Cities Annual Conference in Sacramento from September 22-24, 2021.

BACKGROUND / ANALYSIS

The City is asked to designate its formal voting delegate to the League of California Cities Annual Conference for the purpose of voting on various resolutions at the business meeting. Councilmember Hill has indicated his willingness to attend.

FISCAL IMPACT

There is no fiscal impact associated with this staff report.

RECOMMENDED ACTION

Approve the designation of Councilmember Eli Hill as voting delegate.

ATTACHMENTS

1. League of California Cities Memo dated June 16, 2021
2. Annual Conference Voting Procedures
3. Voting Delegate Form

FOR CITY CLERK ONLY

Council Meeting:

Disposition:



Council Action Advised by August 31, 2021

June 16, 2021

TO: City Managers and City Clerks

**RE: DESIGNATION OF VOTING DELEGATES AND ALTERNATES
League of California Cities Annual Conference & Expo – September 22-24, 2021**

Cal Cities 2021 Annual Conference & Expo is scheduled for September 22-24, 2021 in Sacramento. An important part of the Annual Conference is the Annual Business Meeting (during General Assembly) on Friday, September 24. At this meeting, Cal Cities membership considers and acts on resolutions that establish Cal Cities policy.

In order to vote at the Annual Business Meeting, your city council must designate a voting delegate. Your city may also appoint up to two alternate voting delegates, one of whom may vote if the designated voting delegate is unable to serve in that capacity.

Please complete the attached Voting Delegate form and return it to Cal Cities office no later than Wednesday, September 15. This will allow us time to establish voting delegate/alternate records prior to the conference.

Please note: Our number one priority will continue to be the health and safety of participants. We are working closely with the Sacramento Convention Center to ensure that important protocols and cleaning procedures continue, and if necessary, are strengthened. Attendees can anticipate updates as the conference approaches.

- **Action by Council Required.** Consistent with Cal Cities bylaws, a city's voting delegate and up to two alternates must be designated by the city council. When completing the attached Voting Delegate form, please attach either a copy of the council resolution that reflects the council action taken, or have your city clerk or mayor sign the form affirming that the names provided are those selected by the city council. Please note that designating the voting delegate and alternates **must** be done by city council action and cannot be accomplished by individual action of the mayor or city manager alone.
- **Conference Registration Required.** The voting delegate and alternates must be registered to attend the conference. They need not register for the entire conference; they may register for Friday only. Conference registration will open mid-June at www.cacities.org. In order to cast a vote, at least one voter must be present at the Business Meeting and in possession of the voting delegate card. Voting delegates and alternates need to pick up their conference badges before signing in and picking up the voting delegate card at the Voting Delegate Desk. This will enable them to receive the special sticker on their name badges that will admit them into the voting area during the Business Meeting.
- **Transferring Voting Card to Non-Designated Individuals Not Allowed.** The voting delegate card may be transferred freely between the voting delegate and alternates, but

only between the voting delegate and alternates. If the voting delegate and alternates find themselves unable to attend the Business Meeting, they may *not* transfer the voting card to another city official.

- **Seating Protocol during General Assembly.** At the Business Meeting, individuals with the voting card will sit in a separate area. Admission to this area will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate. If the voting delegate and alternates wish to sit together, they must sign in at the Voting Delegate Desk and obtain the special sticker on their badges.

The Voting Delegate Desk, located in the conference registration area of the Sacramento Convention Center, will be open at the following times: Wednesday, September 22, 8:00 a.m. – 6:00 p.m.; Thursday, September 23, 7:00 a.m. – 4:00 p.m.; and Friday, September 24, 7:30 a.m.– 11:30 a.m. The Voting Delegate Desk will also be open at the Business Meeting on Friday, but will be closed during roll calls and voting.

The voting procedures that will be used at the conference are attached to this memo. Please share these procedures and this memo with your council and especially with the individuals that your council designates as your city's voting delegate and alternates.

Once again, thank you for completing the voting delegate and alternate form and returning it to the League's office by Wednesday, September 15. If you have questions, please call Darla Yacub at (916) 658-8254.

Attachments:

- Annual Conference Voting Procedures
- Voting Delegate/Alternate Form



CITY: San Rafael

**2021 ANNUAL CONFERENCE
VOTING DELEGATE/ALTERNATE FORM**

Please complete this form and return it to Cal Cities office by Wednesday, September 15, 2021. Forms not sent by this deadline may be submitted to the Voting Delegate Desk located in the Annual Conference Registration Area. Your city council may designate one voting delegate and up to two alternates.

To vote at the Annual Business Meeting (General Assembly), voting delegates and alternates must be designated by your city council. Please attach the council resolution as proof of designation. As an alternative, the Mayor or City Clerk may sign this form, affirming that the designation reflects the action taken by the council.

Please note: Voting delegates and alternates will be seated in a separate area at the Annual Business Meeting. Admission to this designated area will be limited to individuals (voting delegates and alternates) who are identified with a special sticker on their conference badge. This sticker can be obtained only at the Voting Delegate Desk.

1. VOTING DELEGATE

Name: Eli Hill

Title: Councilmember

2. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

3. VOTING DELEGATE - ALTERNATE

Name: _____

Title: _____

PLEASE ATTACH COUNCIL RESOLUTION DESIGNATING VOTING DELEGATE AND ALTERNATES OR

ATTEST: I affirm that the information provided reflects action by the city council to designate the voting delegate and alternate(s).

Name: _____

Email _____

Mayor or City Clerk _____
(circle one) (signature)

Date _____ Phone _____

Please complete and return by Wednesday, September 15, 2021 to:

Darla Yacub, Assistant to the Administrative Services Director

E-mail: dyacub@cacities.org

Phone: (916) 658-8254



Annual Conference Voting Procedures

1. **One City One Vote.** Each member city has a right to cast one vote on matters pertaining to Cal Cities policy.
2. **Designating a City Voting Representative.** Prior to the Annual Conference, each city council may designate a voting delegate and up to two alternates; these individuals are identified on the Voting Delegate Form provided to the Cal Cities Credentials Committee.
3. **Registering with the Credentials Committee.** The voting delegate, or alternates, may pick up the city's voting card at the Voting Delegate Desk in the conference registration area. Voting delegates and alternates must sign in at the Voting Delegate Desk. Here they will receive a special sticker on their name badge and thus be admitted to the voting area at the Business Meeting.
4. **Signing Initiated Resolution Petitions.** Only those individuals who are voting delegates (or alternates), and who have picked up their city's voting card by providing a signature to the Credentials Committee at the Voting Delegate Desk, may sign petitions to initiate a resolution.
5. **Voting.** To cast the city's vote, a city official must have in their possession the city's voting card and be registered with the Credentials Committee. The voting card may be transferred freely between the voting delegate and alternates, but may not be transferred to another city official who is neither a voting delegate or alternate.
6. **Voting Area at Business Meeting.** At the Business Meeting, individuals with a voting card will sit in a designated area. Admission will be limited to those individuals with a special sticker on their name badge identifying them as a voting delegate or alternate.
7. **Resolving Disputes.** In case of dispute, the Credentials Committee will determine the validity of signatures on petitioned resolutions and the right of a city official to vote at the Business Meeting.



Agenda Item No: 7.a
Meeting Date: August 2, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

Prepared by: Alicia Giudice,
Community Development Director
Barry Miller, Contract Project Mgr.

City Manager Approval: 

TOPIC: SAN RAFAEL GENERAL PLAN 2040, DOWNTOWN PRECISE PLAN, AND ZONING ORDINANCES

- SUBJECT:**
- (1) RESOLUTION ADOPTING FINDINGS OF FACT AND A STATEMENT OF OVERRIDING CONSIDERATION FOR GENERAL PLAN 2040 AND THE DOWNTOWN PRECISE PLAN**
 - (2) RESOLUTION ADOPTING SAN RAFAEL GENERAL PLAN 2040**
 - (3) RESOLUTION ADOPTING DOWNTOWN PRECISE PLAN**
 - (4) ORDINANCE AMENDING THE SAN RAFAEL MUNICIPAL CODE AMENDING TITLE 14 (ZONING ORDINANCE) AND AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO:**
 - A) REPEAL THE EXISTING DOWNTOWN ZONING DISTRICTS, AND REPLACE WITH DOWNTOWN MIXED-USE (DMU) DISTRICT;**
 - B) AMEND, DELETE AND REPLACE CERTAIN ZONING PROVISIONS APPLICABLE TO DOWNTOWN SAN RAFAEL; AND**
 - C) AMEND, DELETE AND REPLACE OTHER ZONING REGULATIONS TO COMPLY WITH STATE LAW AND INCORPORATE OTHER MINOR CHANGES, CORRECTIONS AND UPDATES**
 - (5) ORDINANCE ADOPTING THE DOWNTOWN SAN RAFAEL PRECISE PLAN – CHAPTER 9 DOWNTOWN FORM-BASED CODE TO SERVE AS THE PRIMARY REGULATORY CITY ZONING CODE FOR DOWNTOWN SAN RAFAEL**

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

RECOMMENDATION:

Staff recommends that the City Council approve the attached Resolutions and Ordinances related to General Plan 2040 and the Downtown Precise Plan.

EXECUTIVE SUMMARY

This is the second of two public hearings scheduled to adopt General Plan 2040, the Downtown Precise Plan, the Final EIR, and conforming amendments to the San Rafael Municipal Code. The City Council held an initial hearing on [July 19, 2021](#) and adopted a resolution certifying the Environmental Impact Report for the project at the conclusion of that hearing. The August 2nd hearing provides an additional opportunity for public comment on the remaining components of the project. These components include California Environmental Quality Act (CEQA) Findings and a Statement of Overriding Considerations, General Plan 2040, and the Downtown Precise Plan. The August 2nd hearing also includes Council consideration of ordinances amending the San Rafael Municipal Code and adopting a Form-Based Code for Downtown that implements the Precise Plan.

This staff report focuses on the specific Council actions to be taken on August 2 and related discussion and correspondence. More comprehensive information on the project is contained in the City Council's [July 19, 2021](#) staff report. The July 19 report also includes links to prior staff reports on this item.

BACKGROUND:

General Plan 2040

Every city and county in California is required to prepare a long-range, comprehensive, general plan for its future. An update of the San Rafael General Plan 2020 was initiated in 2017, moving the planning horizon forward to 2040. The update is necessary to respond to new issues, priorities, forecasts, state laws, and to incorporate recent City plans and programs. All elements of the Plan have been comprehensively updated except the Housing Element, which staff is beginning to update now (2021-2022) in accordance with a schedule set by State law. An extensive community engagement program, including a 24-member Steering Committee, accompanied this effort.

Downtown San Rafael Precise Plan (Downtown Precise Plan)

As part of the General Plan Update, the City prepared a more focused plan for Downtown San Rafael. The "Downtown Precise Plan" replaces the 1993 Downtown Vision Plan and includes strategies to accommodate future Downtown housing and employment and to strengthen Downtown San Rafael as a vital, attractive business district and neighborhood. The Precise Plan was funded by a grant from the Association of Bay Area Governments and reflects Downtown's designation as a "Priority Development Area." The Plan includes specific planning and design recommendations, as well as strategies for historic preservation, economic development, transportation, affordable housing production, and anti-displacement. It also includes a "Form Based Code" that will replace existing zoning regulations.

Environmental Impact Report

San Rafael General Plan 2040 and the Downtown Precise Plan are collectively defined as a "project" under the California Environmental Quality Act (CEQA). The project was determined to have the potential for significant effects on the environment. As required by CEQA, a Draft Environmental Impact Report (DEIR) was prepared. The DEIR evaluates the impacts of incrementally adding roughly 4,400 housing units and 4,000 jobs across the San Rafael planning area over a 20-year period, subject to the policies and standards in the General Plan and Precise Plan. The EIR identified significant,

unavoidable impacts on air quality, cultural (historic) resources, greenhouse gas emissions, and transportation. Other impacts were mitigated to “less than significant” levels by policies and programs in the two plans.

Amendments to the Municipal Code

The Downtown Precise Plan is a regulatory document as well as a policy document. Its implementation requires the adoption of two ordinances. The first amends the San Rafael Municipal Code (SRMC) and the second establishes the Precise Plan’s Form Based Code as the governing set of regulations for Downtown development. The amendments to the Municipal Code repeal existing zoning regulations for Downtown San Rafael and create a new “Downtown Mixed Use” (DMU) zoning district, corresponding to the Precise Plan area. Several other amendments are proposed to implement recent State laws.

Prior Actions

As noted in the July 19 Staff Report, the San Rafael Planning Commission convened 10 public hearings on this item between September 2020 and June 2021. The General Plan and Precise Plan were both edited and revised in response to public input and guidance from the Commission. Relevant milestones are noted below:

- On June 15, 2021, the Planning Commission approved a resolution recommending Council certification of the General Plan/ Precise Plan EIR.
- June 29, 2021, the Planning Commission approved four resolutions recommending that the Council adopt: (a) the CEQA Findings/ Statement of Overriding Considerations; (b) General Plan 2040, (c) Downtown Precise Plan, and (d) Municipal Code amendments/ Form Based Code.
- On July 19, 2021, the City Council certified the Final EIR for General Plan 2040 and the Downtown Precise Plan.

ANALYSIS:

A. Summary of the Resolutions to be considered

Three City Council resolutions accompany this staff report. They include:

[Attachment 1: Resolution adopting CEQA Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring Program¹](#)

Under the California Environmental Quality Act (CEQA) guidelines, Findings of Fact and a Statement of Overriding Consideration are required for projects that have one or more significant, unavoidable impacts on the environment. The Findings, which are essentially excerpts from the EIR, must show that changes have been incorporated into the project (by the lead agency or by another agency) to avoid or substantially lessen their significant impacts. The resolution reiterates the conclusions of the EIR and recites the mitigation measures that have been incorporated into the General Plan and Precise Plan to lessen potentially significant impacts.

The Statement of Overriding Considerations is also required to describe the social, economic, and environmental benefits that “override” the potentially significant impacts that would result from the project. This includes a finding that adopting General Plan 2040 will have more beneficial impacts on the environment than retaining the existing General Plan 2020.

¹ Resolution and Ordinance numbers will be assigned by the City Clerk’s office by meeting time.

Attachment 2: Resolution adopting San Rafael General Plan 2040

This Resolution adopts San Rafael General Plan 2040. It describes the General Plan Update process and demonstrates that the Plan is in the public interest, would not induce unanticipated growth, and advances San Rafael's vision for its future.

Attachment 3: Resolution adopting the Downtown Precise Plan

This Resolution adopts the Downtown Precise Plan. The Resolution describes the Precise Plan process and demonstrates that the Plan is in the public interest, consistent with General Plan 2040, and promotes compatible and harmonious development.

B. Summary of the Ordinances to be considered

Two ordinances, each with related exhibits, accompany this staff report. Both ordinances will require a second Council hearing for final adoption.

Attachment 4: Conforming Amendments to the SRMC

The first Ordinance repeals the existing 4SRC, CSMU, HO, 2/3 MUE, 2/3MEW, WEV and 5/M R/O Downtown zoning districts and replaces them with a Downtown Mixed Use (DMU) district. A map of the new DMU district is included in the Ordinance as Exhibit B. All references to the former Downtown zones, which were established in 1993, are being removed from the SRMC, including related development standards, use tables, parking requirements, height limits, limits on ground floor uses, and so on.

A number of amendments unrelated to the Downtown Precise Plan also are covered by this Ordinance. These amendments are being paired with the Precise Plan amendments for efficiency's sake, as they would otherwise require a separate hearing and commitment of staff time and resources. They include:

- Implementation of Senate Bill 234 (2019), which prohibits the City from requiring a use permit for large family day care homes. Elimination of the use permit requirement removes certain limitations on day care homes serving 8-14 children. The City has been complying with SB 234 in practice but has not formalized the change in its zoning regulations.
- Extension of the time limit for zoning permits (variances, use permits, etc.) from one-year to two years, to recognize the length of time it may take to secure building permits or commence with a project, avoid the need for extensions and align the Code with the City's current practices.
- Elimination of "cannabis infused products" (an activity permitted by the zoning code in the Commercial/Office and Industrial zones) from the Use Tables, and its replacement with "cannabis manufacturing," which would be permitted only in industrial zones. This aligns the City's zoning regulations with existing State license categories and is more responsive to business needs. Additional information on this change may be found on Page 11 of the [June 29, 2021](#) Planning Commission staff report.

Attachment 5: Adoption of the Form-Based Code (FBC)

The second Ordinance adopts Chapter 9 of the Precise Plan (the Form-Based Code for Downtown) as the principal zoning regulation for Downtown San Rafael. Once adopted, the development standards, requirements, procedures, and use tables in Chapter 9 will govern future land use and development decisions within the Downtown area.

C. Issues Raised at July 19, 2021 Hearing

Public Comments

There were thirteen speakers at the July 19 hearing. Their comments are grouped into four categories and are summarized below:

- **Climate Change Measures.** There were six speakers who addressed the urgency of climate change action measures in the General Plan 2040. These speakers were generally supportive of the General Plan but expressed concern about the EIR's conclusion that greenhouse gas (GHG) emission impacts were significant and unavoidable. The speakers, who represented several organizations, encouraged the Council to act swiftly on the General Plan's GHG reduction measures in order to meet State targets. No specific text edits were requested and no further edits on this topic are proposed.
- **Baylands Corridor.** Two speakers, representing Marin Audubon and Marin Conservation League, encouraged the Council to add a Baylands Corridor designation to the General Plan 2040. Letters making this request had been submitted previously. The speakers noted that the County of Marin has such a designation on its General Plan, and that its inclusion in the City's General Plan would support broader conservation and climate-related goals. Staff responded that General Plan 2040 had been edited (in Fall 2020) to acknowledge the County's Baylands Corridor, and further noted that the City has a sea level rise adaptation overlay in the General Plan and wetlands conservation overlay in its zoning regulations that serves a complementary purpose. Staff noted that the Baylands Corridor concept could be considered as an option during sea level rise adaptation planning and concluded that it would be premature to apply the designation at this time. Further edits related to this topic are not proposed at this point.
- **Displacement and Gentrification.** Four of the speakers addressed displacement, gentrification, and homelessness issues. One speaker encouraged the Council to eliminate the Canal Opportunity Zone designation (a federal designation). Another expressed concern about segregation and poverty in the Canal area. Another suggested that the City explore partnerships to build tiny home communities and innovative affordable housing types. The fourth speaker asked how the Downtown Precise Plan addressed displacement and affordable housing production. Staff responded to these comments at the July 19 meeting, noting that many of these issues will be addressed in the upcoming Housing Element.
- **Equity, Diversity, and Inclusion.** A speaker from the Multi-Cultural Center urged the City to expand its Spanish language outreach efforts as part of the Housing Element and requested that the General Plan 2040 be translated into Spanish. Staff concurs with the need for additional Spanish language outreach and will be working with Canal Alliance and other community partners to implement a broader engagement program during the Housing Element. Staff is exploring options for translating an executive summary of the General Plan into Spanish and making this information available on the City's website.

City Council Comments

The City Council provided several comments on General Plan 2040, the Downtown Precise Plan, and the EIR at its July 19 hearing. Most of these comments were addressed at the meeting, but a few required follow-up edits. The italicized text after each bullet statement below reflect the edits made to respond specifically to those City Council comments:

- Edit General Plan 2040 to note the importance of resident actions that complement the City's actions, especially with respect to water conservation. *Page 1-13 ("Implementing and Amending*

the Plan") has been edited to add text on community member efforts to conserve water and prevent wildfires. In addition, Policies CDP-4.10 and C-3.9 have been strengthened to emphasize individual responsibilities for conserving water.

- Edit the Downtown Precise Plan to recognize the County's responsibilities with respect to homelessness, including strategies to assist unsheltered residents. *P 222 of the Precise Plan has been added to note this point. Several other edits have been made to emphasize a compassionate approach to assisting unsheltered residents and providing more permanent supportive housing. Policy EDI-4.6 in General 2040 has been edited to note the special needs of unhoused residents.*
- Edit General Plan 2040 to avoid calling out a specific non-profit/ volunteer organization as having responsibility for implementation, recognizing that the names and functions of these groups may change over time. *References to "San Rafael Heritage" in Policy CDP-5.8 and 5.10A have been changed to "local preservation advocacy groups".*

There are additional edits to the Plan (see Attachment 6), which were made following additional communication with the Mayor and individual Council members after the July 19 meeting.

D. Public Correspondence After July 19, 2021 Meeting

On July 20, the City received a request from resident Victoria DeWitt to reduce the allowable height bonus on five parcels in the West End Village. The parcels in question are located on the triangle bounded by 4th Street on the north and 2nd Street on the south, including the Shell Station, the IHOP restaurant, a barber shop, and a strip shopping center at 1815-1817 4th Street. The Downtown Precise Plan assigns a 40' height limit to these parcels, with the opportunity for a 20' height bonus for projects that include affordable housing in excess of the City's inclusionary requirements. Ms. DeWitt has requested that the maximum height bonus be reduced to 10', comparable to most other properties in the West End Village.

Staff recommends keeping the designation as proposed and invites City Council feedback on the requested change. The five parcels collectively represent 1.2 acres. Staff assigned the higher height bonus (20 feet) to these parcels, as well as adjacent parcels (the Best Buy Outlet/ former Yardbirds) to the east that were identified as Housing Opportunity sites in the 2015 Housing Element. The rationale for a 20' bonus (rather than a 10' bonus) on this block is that it is the western gateway to Downtown, has parcels that are somewhat larger than others in the West End Village, and is buffered from lower density residential areas by major roadways. It is also one of the few blocks in the West End Village without eligible historic resources. With the exception of the recently reconstructed Shell station, improvement values on these parcels are relatively low, land values are high, and there is a large amount of surface parking. The 20-foot height bonus for mixed income and affordable housing projects is an incentive for parcel aggregation and could facilitate future housing development.

Next Steps

Staff will provide a brief presentation at the August 2 meeting highlighting the correspondence received since July 19, the edits made, and the resolutions and ordinances under consideration. An opportunity for City Council discussion and further public comment on this material will be provided. Staff requests Council action on all resolutions and ordinances included as Attachments to this staff report at the August 2 meeting. If this occurs, the General Plan and Precise Plan (Chapters 1-8) would become effective immediately. The Form Based Code and other Code amendments would become effective following adoption of the ordinance, which would occur at the second meeting in August.

If minor changes to General Plan 2040, the Precise Plan, or the Code amendments are proposed on August 2, the City Council may amend the appropriate resolution/ ordinances prior to voting. If more

substantive changes are requested, Council may defer action on the resolutions/ordinances to a future meeting so that these changes can be made.

Any attachments by hyperlink to the adopted resolutions and ordinances will be updated to include the finally approved documents.

COMMUNITY OUTREACH:

As noted in the July 19 staff report, the General Plan 2040 and Downtown Precise Plan are the product of a three-year community engagement process. The Plans were also considered at 10 noticed public hearings before the Planning Commission. The July 19 and August 2 City Council public hearings were advertised in the Marin Independent Journal and also publicized with a post card notice to stakeholder, agencies, and special interest groups. Notice of these meetings was also provided to an email list of approximately 380 subscribers on July 2, 2021.

FISCAL IMPACT:

Adoption of the General Plan 2040 and Downtown Precise Plan will not have a direct fiscal impact on the City, as these are long-range policy documents. Both plans are intended to produce long-term fiscal benefits. The plans accommodate the organized, rational, and efficient growth of the city, including the creation of new businesses and jobs, sustenance of the local economy, and provision of diverse housing types. Both the General Plan and the Precise Plan support increased property values, sales tax revenues, grant eligibility, and other long-term changes that will enhance future municipal revenue. The Plans also establish funding priorities for City programs and services, provide an organizing framework for the capital improvement program, and help shape the City's annual budget. The General Plan provides the long-range perspective on making San Rafael a thriving city.

OPTIONS:

The City Council may consider the following options:

1. Adopt all resolutions and pass the ordinances to print as presented;
2. Approve a modified version of the resolutions and ordinances;
3. Approve some of the resolutions/ ordinances and defer action on others;
4. Defer action on all of the resolutions and ordinances.

RECOMMENDED ACTION:

1. Adopt Resolution Adopting Findings of Fact and a Statement of Overriding Consideration for General Plan 2040 and the Downtown Precise Plan.
2. Adopt Resolution Adopting San Rafael General Plan 2040.
3. Adopt Resolution Adopting Downtown Precise Plan.
4. Pass to print the Ordinance Amending the San Rafael Municipal Code Amending Title 14 (Zoning Ordinance) and Amending the Zoning Map of the San Rafael Municipal Code to: A) Repeal the Existing Downtown Zoning Districts, and Replace with Downtown Mixed-Use (DMU)

District; B) Amend, Delete, and Replace Certain Zoning Provisions Applicable To Downtown San Rafael; and C) Amend Delete, and Replace Other Zoning Regulations to Comply with State Law and Incorporate Other Minor Changes, Corrections, and Updates.

5. Pass to print an Ordinance Adopting the Downtown San Rafael Precise Plan – Chapter 9 Downtown Form-Based Code to Serve as the Primary, Regulatory City Zoning Code for Downtown San Rafael.

ATTACHMENTS:

1. Resolution approving CEQA Findings of Fact, a Statement of Overriding Consideration, and a Mitigation Monitoring Program for General Plan 2040 and the Downtown Precise Plan
2. Resolution approving San Rafael General Plan 2040
3. Resolution approving the Downtown Precise Plan
4. Ordinance amending Title 14 of the San Rafael Municipal Code, with Exhibits A, B, and C listing Code changes
5. Ordinance adopting the Downtown Form-Based Code, including Exhibit A, the Form-Based Code
6. List of edits to General Plan 2040 and Downtown Precise Plan made since July 19, 2021
7. Correspondence

LINKS:

- [San Rafael General Plan 2040](#) (including changes through July 27, 2021)
- Downtown Precise Plan, including Form-Based Code- [Part 1](#) and [Part 2](#) (including changes through July 26, 2021)
- Draft Environmental Impact Report – [Part 1](#) and [Part 2](#)
- [Final Environmental Impact Report](#)

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS, A STATEMENT OF OVERRIDING CONSIDERATIONS AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE SAN RAFAEL GENERAL PLAN 2040 AND DOWNTOWN SAN RAFAEL PRECISE PLAN

WHEREAS, the City of San Rafael has completed an update of its General Plan and prepared a Downtown Precise Plan, which collectively constitute a “project” under the California Environmental Quality Act (“CEQA”); and

WHEREAS, CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) require an analysis and determination regarding a project’s potential environmental impacts; and

WHEREAS, the project consists of long-term planning policies and standards that will guide future development in the City and does not approve any specific developments, and is therefore appropriately covered by a program-level Environmental Impact Report (“EIR”) pursuant to CEQA Guidelines Section 15168; and

WHEREAS, the City released a Notice of Preparation (“NOP”) for the Project to the Office of Planning and Research (“OPR”) State Clearinghouse and interested agencies and persons on March 29, 2019 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City held a public scoping meeting on April 23, 2019. Comments on the NOP were received and considered during preparation of the Draft EIR; and

WHEREAS, a Notice of Availability (“NOA”) was issued and the Draft EIR was made available for public review on January 7, 2021 for a 60-day public review period through March 9, 2021; and

WHEREAS, the Draft EIR was filed with the California Office of Planning and Research on January 7, 2021 and was made available on the City’s website; and

WHEREAS, the City provided a 61-day review period for the Draft EIR and the San Rafael Planning Commission held a public hearing on the EIR on March 9, 2021; and

WHEREAS, on May 23, 2021, the City published a Response to Comments Document that contains all of the comments received on the Draft EIR during the public comment period, including those received at the public hearing, and prepared written responses to those comments in accordance with CEQA and the CEQA Guidelines. The Draft EIR and Response to Comments Document, together with three errata, constitute the Final EIR; and

WHEREAS, all required public notices and public hearings were duly given and held according to law; and

WHEREAS, after notice having been lawfully given, a duly noticed public hearing was held before the City Planning Commission on June 15, 2021 at which all persons interested had the

opportunity to appear and comment and at which the Planning Commission considered and made recommendations to the City Council regarding the Final EIR and the merits of the Project; and

WHEREAS, after closing the public hearing, the Planning Commission acting on its independent judgment and analysis voted affirmatively to recommend certification of the Final EIR by the City Council pursuant to CEQA; and

WHEREAS, the Planning Commission held a subsequent public hearing on June 29, 2021 to consider a recommendation that the City Council adopt CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring Program on the Final EIR. The Planning Commission considered public testimony and unanimously approved a resolution supporting said recommendation; and

WHEREAS, the City Council certified the Final EIR on July 19, 2021; and

WHEREAS, pursuant to Public Resources Code Section 21082.1(c)(3), the City Council finds that the Final EIR reflected the City's independent judgment as the lead agency for the Project and was supported by substantial evidence; and

WHEREAS, the Final EIR identified certain potentially significant adverse effects on the environment caused by the Project; and

WHEREAS, the City Council specifically finds that where more than one reason for approving the Project and rejecting alternatives is given in its findings or in the record, and where more than one reason is given for adopting the Statement of Overriding Considerations, it would have made its decision on the basis of any one of those reasons; and

WHEREAS, the City Council desires, in accordance with CEQA, to declare that, despite the potential for significant environmental effects that cannot be substantially lessened or avoided through the adoption of feasible mitigation measures or feasible alternatives, there exist certain overriding economic, social, and other considerations for approving the project that justify the occurrence of those impacts; and

WHEREAS, the City Council has fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter and has determined that a Statement of Overriding Considerations is warranted;

NOW, THEREFORE, BE IT RESOLVED that the San Rafael City Council makes the following findings with respect to the Project's significant effects on the environment as identified in the Final EIR, as required under Sections 15091, 15092, and 15093 of the CEQA Guidelines, and adopts the Mitigation Monitoring and Reporting Program ("MMRP") as follows:

I. PROJECT DESCRIPTION

As fully described in Chapter 3 of the Final EIR, the Project includes potential new development associated with implementation of General Plan 2040 and the Downtown Precise Plan. This includes previously approved projects, the remaining buildout potential from the prior General Plan 2020, and additional capacity related to policy updates and map changes. The General Plan, which includes a vision, guiding principles, goals, policies, and programs, functions as the City's primary land use regulatory tool. It is San Rafael's constitution for future change and is the basis for all planning-related decisions made by City staff, the Planning Commission, and the City Council.

The proposed Downtown Precise Plan is a critical part of the General Plan, as roughly half of the city's future housing and employment growth is expected to occur in downtown San Rafael, referred to as the Downtown Precise Plan Area. The Downtown Precise Plan implements the community's vision to create opportunities for reinvestment and future development that is feasible, predictable, and consistent with the community's priorities and aspirations. The Downtown Precise Plan refines existing policies and sets design direction for a variety of topics in coordination with other approved plans and policy documents. The Downtown Precise Plan identifies growth and development opportunities; provides the principles, policies, and strategies to guide investment, and proposes a form-based code to replace the current zoning standards. The Downtown Precise Plan will serve as the overarching guiding document that provides strategies and recommendations for growth within the Downtown Precise Plan Area.

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2020 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including *Plan Bay Area*, which is the Bay Area's Regional Transportation Plan/Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

A. PROJECT OBJECTIVES

The primary purposes of the Project are to plan for the growth and conservation of San Rafael over a 20-year time horizon and to achieve a more equitable, sustainable, and prosperous future for all residents. Objectives include focusing growth in the Downtown Precise Plan Area, capitalizing on transit opportunities in and around Priority Development Areas, and streamlining future development that is consistent with the proposed project. This requires extending the General Plan buildout horizon from 2020 to 2040 and updating goals, policies, and programs so that they meet current State requirements and community priorities.

B. GENERAL PLAN UPDATE

Every city and county in California is required to prepare and to adopt a comprehensive long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries (Government Code Section 65300). The City of San Rafael has undertaken a community-based planning process to review changes to the General Plan elements. The Project updates the General Plan 2020 goals, policies, and programs to reflect current conditions, issues, resources, and community perspectives. For example, changes are needed to address the evolving state of the city and region and to cover global issues such as climate change and emerging transportation technology.

General Plan Update Components

The General Plan Update revised and added new goals, policies, and programs to address the changing needs of the community and ensure compliance with updates required by State laws. In addition to legal requirements, the goals, policies, and programs in the proposed General Plan 2040 are influenced by community input, best practices, and emerging issues (e.g., sea level rise, autonomous vehicles, green infrastructure, etc.). Such revisions include the consolidation or reorganization of some previous elements, updating of several elements to reflect changing conditions in the community, and the introduction of a new Equity, Diversity, and Inclusion Element. The General Plan Update also includes a change in the measure of residential density from "gross" density to "net" density, consolidation and updating of various land use designations to reflect existing conditions and zoning patterns, and updates to the General Plan Land Use Map to correct errors and reflect existing uses.

General Plan Buildout Projections

The horizon-year projections were based on the reasonably foreseeable development that is expected to occur within the period from 2020 to 2040. The 2040 horizon year is generally consistent with other key planning documents, including *Plan Bay Area 2040*. As shown in Table 1, the General Plan Update accounts for a total of 4,250 households, 4,460 residential units, 8,910 persons, and 4,115 employees in the EIR Study Area.

TABLE 1 PROPOSED 2040 BUILDOUT PROJECTIONS IN THE EIR STUDY AREA

Category	Existing Conditions (2020)	Projected Growth by Area (2020-2040)		Net Change (2020–2040)	Buildout Estimates (2040)
		City	Unincorporated		
Households	28,132	3,860	390	4,250	32,382
Residential Units	29,529	4,050	410	4,460	33,989
Total Population	75,751	8,010	900	8,910	84,661
Employees	44,200	4,050	65	4,115	48,315

Source: City of San Rafael, 2020.

C. DOWNTOWN PRECISE PLAN

The Downtown Precise Plan expresses the community’s vision for future Downtown development. The Downtown Precise Plan refines existing policies and sets design direction for a variety of topics in coordination with other approved plans and policy documents. The Plan identifies growth and development opportunities; provides the principles, policies, and strategies to guide investment, and proposes a form-based code to replace the current zoning standards.

Downtown Precise Plan Components

The Downtown Precise Plan is made up of nine chapters, plus a glossary and an appendix. The first three chapters provide the context for the document and describe existing conditions and guiding principles. Chapter 4 provides a design vision for the entire Downtown Precise Plan Area and includes more specific guidance for four sub-areas within the boundary of the Downtown Precise Plan Area. Chapter 5 addresses historic preservation and Chapter 6 addresses circulation. Chapter 7 is an affordable housing and anti-displacement strategy. Chapter 8 covers implementation, including recommended capital projects and economic development strategies. Chapter 9 is the proposed Downtown Form-Based Code. The appendices include a historic resources inventory, a summary of community outreach efforts, and several reports prepared during the planning process.

Downtown Precise Plan Zoning Amendment

The proposed Downtown Precise Plan includes the Downtown Form-Based Code, which would amend San Rafael Municipal Code (“SRMC”) Title 14, Zoning. The proposed Downtown Form-Based Code would replace existing zoning regulations for all of the properties in the Downtown Precise Plan Area with the exception of parcels in the Latham Street area, which would retain their Multifamily Residential District ([Medium Density] 2,500 square feet per dwelling unit [MR2.5]) zoning designation, and the existing open space and public zoning designations. The Downtown Form-Based Code consists of new zoning regulations that would be organized into a coordinated set of articles and incorporated into the Zoning Ordinance. Once adopted, should there be any

conflict between the existing Zoning Ordinance and the Downtown Precise Plan, the Downtown Precise Plan shall prevail.

Downtown Precise Plan Buildout Projections

The horizon-year projections were based on the probable, or reasonably foreseeable, “planning period development” that is expected to occur within the planning period through the year 2040. As shown in Table 2, growth in the Downtown Precise Plan Area through the year 2040 is anticipated to include 2,100 households, 2,200 residential units, 3,570 residents, and 2,020 employees. Projections anticipated in the Downtown Precise Plan Area are accounted for in the total projections assumed under the General Plan Update, and are not in addition to the buildout projections shown in Table 1.

TABLE 2 PROPOSED 2040 BUILDOUT PROJECTIONS IN THE DOWNTOWN PRECISE PLAN AREA

Category	Existing Conditions (2020)	Net Change (2020–2040)	Buildout Estimates (2040)
Households	1,496	2,100	3,596
Residential Units	1,571	2,200	3,771
Total Population	2,315	3,570	5,885
Employees	11,000	2,020	13,020

Source: City of San Rafael, 2020.

II. ENVIRONMENTAL REVIEW PROCESS

A. ENVIRONMENTAL IMPACT REPORT

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public with an opportunity to comment on the Draft EIR. An NOP of an EIR was issued by the City to the OPR State Clearinghouse and interested agencies and persons on March 29, 2019 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City also held a public scoping meeting on April 23, 2019. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

An NOA was issued on January 7, 2021 and the Draft EIR was made available for public review for a 61-day public review period through March 9, 2021. The Draft EIR was distributed to local, regional, and State agencies and the general public was advised of the availability of the Draft EIR. Due to the COVID-19 Pandemic, physical (paper) copies of the Draft EIR were not made available, but the document was accessible via the City’s website.

The Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. The Draft EIR and the Responses to Comments Document comprise the Final EIR. The Planning Commission recommended City Council approval of the Final EIR following a public hearing on June 15, 2021. The City Council considers the Planning Commission’s recommendations on the Final EIR in taking final action on the Project.

B. CERTIFICATION OF THE FINAL EIR

In accordance with CEQA Guidelines Section 15090, on July 19, 2021 the City of San Rafael acting by and through the City Council, certified that the Final EIR was completed in compliance with CEQA. The City Council further certified that it has been presented with the Final EIR and that it reviewed and considered the information contained in the Final EIR prior to approving the Project. The City Council certifies that the Final EIR reflects its independent judgment and analysis.

C. RECORD OF PROCEEDINGS

For purposes of CEQA and these findings, the record of proceedings consists of the following documents and testimony:

- (a) The NOP and all other public notices issued by the City in conjunction with the Project;
- (c) The Draft EIR for the Project, dated January 7, 2021;
- (d) All comments submitted by agencies or members of the public during the public comment period on the Draft EIR;
- (e) The Final EIR for the Project, including comments received on the Draft EIR, responses to those comments, and the technical appendices, dated May 23, 2021;
- (f) The MMRP for the Project;
- (h) All reports, studies, memoranda, maps, staff reports, or other planning documents related to the Project prepared by the City, or consultants to the City, with respect to the City's compliance with the requirements of CEQA and with respect to the City's action on the Project;
- (i) All documents submitted to the City (including the Planning Commission and City Council) by other public agencies or members of the public in connection with the Project;
- (j) Any minutes and/or verbatim transcripts of all information sessions, public meetings, and public hearings held by the City in connection with the Project;
- (k) All matters of common knowledge to the Planning Commission and City Council, including, but not limited to:
 - (i) City's General Plan and other applicable policies;
 - (ii) City's Zoning Ordinance and other applicable ordinances;
 - (iii) Information regarding the City's fiscal status;
 - (iv) Applicable City policies and regulations; and
 - (v) Federal, state and local laws and regulations.
- (l) Any other materials required for the record of proceedings by CEQA Section 21167.6(e).

The documents described above comprising the record of proceedings are located on the City's webpage at: <https://www.cityofsanrafael.org/general-plan-ceqa/>. The custodian of these documents is the City's Community Development Director or his/her designee.

III. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (“Findings”) are made and adopted by the City Council of the City of San Rafael as the City’s findings under CEQA and the CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of the City Council regarding the Project’s environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to Project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, the findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City’s findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of the environmental findings and conclusions can be found in the Final EIR; the discussion and analysis in the Final EIR regarding mitigation measures and the Project’s impacts is adopted by reference.

The City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections IV and V, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

IV. FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are the responsibility and jurisdiction of other public agencies. As explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures, where applicable. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section VII, below. As explained in Section VIII below, the findings in Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated by this reference.

A. IMPACT AIR-2.2: OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD CUMULATIVELY CONTRIBUTE TO THE NON-ATTAINMENT DESIGNATIONS OF THE SAN FRANCISCO BAY AREA AIR BASIN.

The Final EIR finds that future development from implementation of the General Plan 2040, and Downtown Precise Plan would result in a substantial long-term increase in criteria air pollutants over the 20-year General Plan horizon. Because cumulative development within the city could exceed regional significance thresholds, the Project could contribute to an increase in health effects in the San Francisco Bay Area Air Basin until such time as the attainment standards are met.

Implementation of Mitigation Measure AIR-2.2 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure AIR-2.2; therefore, the impact would be significant and unavoidable.

Mitigation Measure AIR-2.2: *To reduce long-term increases in air pollutants during the operation phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2 (Land Use Compatibility and Building Standards):*

- ***New General Plan Program:*** *Require projects that exceed the BAAQMD screening sizes to evaluate project-specific operation emissions in conformance with BAAQMD CEQA Guidelines, and if operation-related air pollutants exceed the BAAQMD-adopted thresholds of significance, require the project applicants to mitigate the impact to an acceptable level.*

B. IMPACT AIR-3.2. OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL TOXIC AIR CONTAMINANT CONCENTRATIONS FROM NONPERMITTED SOURCES.

The Final EIR finds that future development from implementation of the proposed General Plan 2040 and the Downtown Precise Plan could result in new sources of criteria air pollutant emissions and/or toxic air contaminants near existing or planned sensitive receptors. Because cumulative development within the City of San Rafael could exceed regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin. The impact is considered significant and unavoidable.

Implementation of Mitigation Measure AIR-3.2 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure AIR-3.2; therefore, the impact would be significant and unavoidable.

Mitigation Measure AIR-3.2: *To ensure sensitive receptors are not exposed to toxic air contaminant emissions during the operation phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2: (Land Use Compatibility and Building Standards) to be implemented as part of the project approval process:*

- ***New General Plan Program:*** *Require applicants for industrial or warehousing land uses or commercial land uses that would generate substantial diesel truck travel (i.e., 100 diesel trucks per day or 40 or more trucks with diesel-powered transport refrigeration units per day) to contact BAAQMD to determine the appropriate level of operational health risk assessment (HRA) required. If required, the operational HRA shall be prepared in accordance with the Office of Environmental Health Hazard Assessment and BAAQMD requirements and mitigated to an acceptable level.*

C. IMPACT CULT-1: FUTURE DEVELOPMENT ON SITES THAT CONTAIN A HISTORIC RESOURCE MAY CAUSE THE DEMOLITION, DESTRUCTION, OR ALTERATION OF A HISTORIC RESOURCE SUCH THAT THE SIGNIFICANCE OF THE RESOURCE IS "MATERIALLY IMPAIRED." SUCH ADVERSE CHANGES OR POTENTIAL ADVERSE CHANGES IN THE SIGNIFICANCE OF A CEQA-DEFINED HISTORIC RESOURCE WOULD CONSTITUTE A SIGNIFICANT IMPACT.

The Final EIR finds that future development from implementation of the General Plan 2040 and the Downtown Precise Plan could result in significant impacts to historic resources because project-level details of future development proposals are unknown.

Implementation of Mitigation Measure CULT-1 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure CULT-1; therefore, the impact would be significant and unavoidable.

Mitigation Measure CULT-1: *To ensure sites that contain a historic resource that are subject to demolition, destruction, or alteration, are mitigated to an acceptable level, the City shall amend Program CDP-5.1A (Preservation Ordinance).*

- ***Modified Program CDP-5.1A:*** *Update the Historic Preservation Ordinance. The City of San Rafael shall modify the City's Historic Preservation Ordinance to include updated procedures to mitigate impacts from the demolition, destruction, or alteration of historic resources.*

D. IMPACT CULT-5: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD CAUSE IMPACTS THAT ARE CUMULATIVELY CONSIDERABLE WHEN VIEWED IN CONNECTION WITH THE EFFECTS OF PAST, PRESENT, AND REASONABLY FORESEEABLE PROJECTS.

The Final EIR finds that potential impacts of future development under implementation of the General Plan 2040 and the Downtown Precise Plan on cultural resources and Tribal Cultural Resources (TCRs) tend to be site specific, and cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic building may not be significant to the character of a neighborhood or streetscape, continued loss of such resources on a project-by-project basis could constitute a significant cumulative effect. Additionally, future development would be primarily located within the developed portions of the EIR study area, and this, in conjunction with buildout of the city and the region, has the potential to cumulatively impact historical resources.

While implementation of Mitigation Measures CULT-2, CULT-3, and CULT-4 would reduce impacts to archaeological resources, human remains, and TCRs to a less-than-significant level, it is unknown if future projects that are proposed on sites or adjacent to sites with historic buildings would be able to achieve the Secretary of Interior's Standards at the program level. Therefore, this impact remains significant and unavoidable.

E. IMPACT GHG-1: IMPLEMENTATION OF THE PROPOSED PROJECT MAY NOT MEET THE LONG-TERM GHG REDUCTION GOAL UNDER EXECUTIVE ORDER S-03-05.

The Final EIR finds that for future development under the General Plan 2040 and the Downtown Precise Plan, implementation of the General Plan 2040 goals, policies, and programs would ensure that the City's Greenhouse Gas ("GHG") emissions are reduced to the greatest degree feasible. Policy C-5.1, Climate Change Action Plan ("CCAP"), requires the City maintain and periodically update the CCAP. Policy C-5.1 is supported by Programs C-5.1A, C-5.1B, C-5.1C, and C-5.1D, which require annual progress reports, quarterly forums, identification of funding sources and a minimum 10-year CCAP update. Implementation of this Policy and its associated Programs would ensure that the City is monitoring the City's progress toward its GHG reduction target and requires amendments if is not. The updates would ensure the CCAP is on the trajectory consistent with the GHG emissions-reduction goal established under Executive Order S-03-05 for year 2050 and the latest applicable statewide legislative GHG emission reduction that may be in effect at the time of the CCAP update (e.g., Senate Bill 32 for year 2030). However, at this time, there is no plan that extends beyond 2030 to achieve the long-term GHG reduction goal established under Executive Order S-03-05. Advancement in technology in the future could provide additional reductions to allow the state and City to meet the 2050 goal; however, no additional statewide measures are currently available, and the impact is significant and unavoidable.

Notwithstanding the conclusion above, the City shall continue to vigorously implement all programs it considers necessary to achieve or exceed State GHG goals, including actions pursuant to its 2030 Climate Change Action Plan to reduce emissions through building electrification, electric vehicle adoption, and mandatory organics recycling, thereby addressing the three largest sectors of San Rafael's GHG footprint in the timeframe needed to meet State goals.

F. IMPACT TRAN-1A: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD RESULT IN A SIGNIFICANT LAND USE VMT IMPACT FOR TOTAL VMT AND WORK VMT DUE TO FORECAST LAND USE GROWTH THROUGH 2040, BASED ON A COMPARISON OF THE VMT RATE INCREMENT FOR TOTAL VMT PER SERVICE POPULATION AND WORK VMT PER EMPLOYEE TO THE CORRESPONDING AVERAGE BASELINE RATES FOR THE FULL NINE-COUNTY BAY AREA.

The Final EIR finds that the City of San Rafael may not achieve the overall Vehicle Miles Traveled ("VMT") reduction level as the effectiveness of VMT reductions strategies is not certain. Implementation of Mitigation Measure TRAN-1a set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-1a; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-1a: To reduce vehicle miles traveled the City shall modify Program M-3.3A (TDM Program Guidelines) to support achievement of the VMT reduction Standard:

- **Modified Program 3-3A: Update Trip Reduction Ordinance.** *The City of San Rafael shall modify the Trip Reduction Ordinance (TRO) to reflect General Plan 2040 Policy M-3.1 and focus on VMT reduction measures. The amended TRO shall include the City's VMT reduction thresholds, VMT reduction measures and program guidelines, and a VMT trip reduction monitoring process. The TRO shall be updated a minimum of every five years to reflect changes in baseline VMT values, VMT thresholds, VMT reduction measures, and the monitoring process. The modified TRO shall reflect the process and methodology for conducting the VMT analysis for development projects as described in the City's Transportation Analysis (TA) Guidelines.*

G. IMPACT TRAN-1B: IMPLEMENTATION OF THE PROPOSED PROJECT WOULD RESULT IN A SIGNIFICANT ROAD NETWORK VMT IMPACT DUE TO THE PLANNED CAPACITY OF THE ROADWAY SYSTEM.

The Final EIR finds that for the General Plan 2040 and the Downtown Precise Plan, even with implementation of General Plan policies and application of Mitigation Measure TRAN-1a, because the effectiveness of VMT reduction strategies is not certain, the City of San Rafael may not achieve the overall VMT threshold reduction level. Implementation of Mitigation Measure TRAN-1b set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-1b; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-1b: Implement Mitigation Measure TRAN-1a.

H. IMPACT TRAN-6: IMPLEMENTATION OF THE PROPOSED PROJECT COULD CUMULATIVELY CONTRIBUTE TO REGIONAL VMT.

The Final EIR finds that for the General Plan 2040 and the Downtown Precise Plan, even with the General Plan policy measures and application of Mitigation Measure TRAN-1a, the City of San Rafael will not achieve the VMT rate reductions specified in Policy M-3.1 and the effectiveness of VMT reduction strategies is not certain.

Implementation of Mitigation Measure TRAN-6 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are feasible and available beyond Mitigation Measure TRAN-6; therefore, the impact would be significant and unavoidable.

Mitigation Measure TRAN-6: Implement Mitigation Measure TRAN-1a.

V. FINDINGS FOR SIGNIFICANT IMPACTS REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed through the corresponding mitigation measures will be reduced to a less than significant level or avoided by adopting and incorporating these mitigation measures into the Project. As explained in Section VII, below, the findings in Section V are based on the Final EIR, the discussion and analysis of which is incorporated in full by this reference.

A. IMPACT AIR-2.1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD POTENTIALLY VIOLATE AN AIR QUALITY STANDARD OR CUMULATIVELY CONTRIBUTE TO AN EXISTING OR PROJECTED AIR QUALITY VIOLATION.

Construction activities associated with future development from implementation of the proposed General Plan 2040 and the Downtown Precise Plan would occur over the buildout horizon, causing short-term emissions of criteria air pollutants. Due to the scale of development activity associated with buildout of the proposed project, cumulative emissions would likely exceed the BAAQMD regional significance thresholds. In accordance with the BAAQMD methodology, emissions that exceed the regional significance thresholds would cumulatively contribute to the nonattainment designations of the San Francisco Bay Area Air Basin (“SFBAAB”). Therefore, without the preparation of project-specific analysis for development proposals that exceed the BAAQMD screening sizes, construction emission impacts at the program level are considered significant.

Implementation of Mitigation Measure AIR-2.1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure AIR-2.1: *To reduce temporary increases in criteria air pollutant emissions (NOX) during the construction phase for discretionary development projects that are subject to CEQA which exceed the screening sizes in the Bay Area Air Quality Management District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.4 (Particulate Matter Pollution Reduction) to be implemented as part of the project approval process:*

- **New Program:** *Require projects that exceed the BAAQMD screening sizes to evaluate project-specific construction emissions in conformance with the BAAQMD methodology and if construction-related criteria air pollutants exceed the BAAQMD thresholds of significance, require the project applicant to mitigate the impacts to an acceptable level.*

B. IMPACT AIR-3.1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE NEARBY RECEPTORS TO SUBSTANTIAL CONCENTRATIONS OF TOXIC AIR CONTAMINANTS.

The Final EIR finds that if implementation of the proposed General Plan 2040 and the Downtown Precise Plan would cause or contribute significantly to elevated pollutant concentration levels, it could expose sensitive receptors to air pollutants or elevated pollutant concentrations for construction and operation. Mitigation Measure AIR-3.1a would ensure that placement of sensitive receptors near major sources of air pollution would meet the incremental risk thresholds established by BAAQMD.

Implementation of Mitigation Measure AIR-3.1a, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure AIR-3.1a: *Implement Mitigation Measure AIR-2.1.*

Mitigation Measure AIR-3.1b: *To ensure sensitive receptors are not exposed to toxic air contaminant emissions during the construction phase for discretionary development projects that are subject to CEQA that exceed the screening sizes in the Bay Area Air Quality Management*

District (BAAQMD) CEQA Guidelines, the City shall adopt the following General Plan Program to support Policy C-2.2: (Land Use Compatibility and Building Standards):

- **New Program:** *As recommended by the California Air Resources Board, require projects that would result in construction activities within 1,000 feet of residential and other land uses that are sensitive to toxic air contaminants (e.g., hospitals, nursing homes, day care centers), as measured from the property line of the project, to prepare a construction health risk assessment in accordance with policies and procedures of the Office of Environmental Health Hazard Assessment and the BAAQMD CEQA Guidelines that identifies mitigation measures that are capable of reducing potential cancer and noncancer risks to an acceptable level (i.e., below ten in one million or a hazard index of 1.0).*

C. IMPACT BIO-1: IMPACTS TO SPECIAL-STATUS SPECIES OR THE INADVERTENT LOSS OF BIRD NESTS IN ACTIVE USE, WHICH WOULD CONFLICT WITH THE FEDERAL MIGRATORY BIRD TREATY ACT AND CALIFORNIA FISH AND GAME CODE, COULD OCCUR AS A RESULT OF POTENTIAL NEW DEVELOPMENT.

The Final EIR finds that the potential for adverse impacts on special-status species from future development through implementation of the General Plan 2040 and the Downtown Precise Plan is relatively low. However, there remains a potential for loss or disruption due to conversion of areas of natural habitat, removal of trees and other vegetation, increases in light and noise, and other modifications and disturbance. Development in locations abutting or in the vicinity of open space lands or water resources, where special-status species are more likely to occur, could potentially cause a significant impact to, or cause the inadvertent loss of, bird nests in active use.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-1: *To ensure sensitive species of any kind are not adversely impacted by implementation of the proposed project, the City shall adopt revisions to General Plan Program C-1.13B and shall adopt a new program or modify an existing program to clarify the need for special-status species surveys and to ensure avoidance of nests of native birds in active use to support Policy C-1.13 (Special Status Species):*

- **Modified Program C-1.13B:** *Surveys for Special-Status Species. Require that sites with suitable natural or anthropogenic habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of special status species prior to development approval. Such surveys shall be conducted by a qualified biologist according to CDFW-accepted species-specific protocol-level surveys, as applicable, and occur prior to development-related vegetation removal or other habitat modifications.*
- **New or Modified Program:** *Avoidance of Nesting Birds. Nests of native birds in active use shall be avoided in compliance with State and federal regulations. For new development sites where nesting birds may be present, vegetation clearing and construction shall be initiated outside the bird nesting season (February 1 through August 31) or preconstruction surveys shall be conducted by a qualified biologist within a minimum of 500 feet from the project site where access is feasible and no more than seven days prior to any disturbance. If active nests are encountered, appropriate work*

avoidance buffer zones shall be established based on recommendations by the qualified biologist and remain in place until any young birds have successfully left the nest and are no longer dependent on parental care.

D. IMPACT BIO-2 IMPACTS TO RIPARIAN AREAS, DRAINAGES, AND SENSITIVE NATURAL COMMUNITIES COULD OCCUR FROM POTENTIAL FUTURE DEVELOPMENT WHERE NATURAL HABITAT REMAINS.

The Final EIR finds that future development through implementation of the General Plan 2040 and the Downtown Precise Plan could result in both direct and indirect impacts to riparian habitats and other sensitive natural communities. Direct impacts occur as a result of converting natural resources to developed properties, including the addition of impervious surfaces or hydrologic alterations. Habitat loss and degradation of existing habitat are direct impacts. Direct impacts may also be temporary if they disturb a habitat that is subsequently restored after construction. An indirect impact is a physical change in the environment, which is not immediately related to, but caused by, the project. For example, if future development results in a reduction in habitat, the values and functions of the remaining habitat may be reduced. Similarly, increases in sedimentation as a result of grading and the introduction of urban pollutants could have indirect impacts on aquatic habitat.

Implementation of Mitigation Measure BIO-2, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-2: *To ensure sensitive riparian areas, drainages, and sensitive natural communities are not impacted through implementation of the proposed project, the City shall adopt the following General Plan Program or amend other programs to support Policy C-1.12 (Native or Sensitive Habitats) to ensure that sensitive natural communities are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Sensitive Natural Communities.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of sensitive natural communities prior to development approval. Such surveys should be conducted by a qualified biologist and occur prior to development-related vegetation removal or other habitat modifications.*

E. IMPACT BIO-3: POTENTIAL FUTURE DEVELOPMENT COULD RESULT IN DIRECT AND INDIRECT IMPACTS TO WETLAND HABITAT.

The Final EIR finds that future development and land use activities associated with implementation of the proposed General Plan 2040 and the Downtown Precise Plan could result in direct loss or modification to existing wetlands and unvegetated other waters, as well as indirect impacts due to water quality degradation. Affected wetlands could include both the wetland-related sensitive natural community types, as well as areas of open water, degraded and modified streams and channels, unvegetated waters, and isolated seasonal wetlands or freshwater seeps. Indirect impacts to wetlands and jurisdictional other waters include an increase in the potential for sedimentation due to construction grading and ground disturbance, an increase in the potential for erosion due to increased runoff volumes generated by impervious surfaces, and an increase in the potential for water quality degradation due to increased levels in non-point pollutants.

Implementation of Mitigation Measure BIO-3, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-3: *To ensure that sensitive wetland habitats are not impacted directly or indirectly through implementation of the proposed project, the City shall adopt the following General Plan Program or amend other programs to support Policy C-1.1 (Wetlands Protection) to ensure that jurisdictional waters are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Regulated Waters.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of regulated waters prior to development approval. Such surveys should be conducted by a qualified wetland specialist and occur prior to development-related vegetation removal or other habitat modifications.*

F. IMPACT BIO-4: POTENTIAL FUTURE DEVELOPMENT IN THE EIR STUDY AREA COULD RESULT IN IMPACTS ON THE MOVEMENT OF WILDLIFE AND POTENTIAL FOR INCREASED RISK OF BIRD COLLISIONS.

The Final EIR finds that new buildings associated with future development through implementation of the General Plan 2040 and Downtown Precise Plan could contribute to an increased risk of bird collisions and mortalities. For taller buildings and structures that extend above the existing urban fabric and height of vegetative cover, this could be a significant impact unless appropriate bird-safe design measures were incorporated into the building design.

Implementation of Mitigation Measure BIO-4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-4: *To ensure that potential future development under implementation of the proposed project does not result in impacts on the movement of wildlife, the City shall adopt the following General Plan programs or amend other programs to support Policy C-1.11 (Wildlife Corridors) so that important movement corridors and the potential for increased risk of bird collisions are identified and addressed as part of future development review:*

- ***New or Modified Program: Surveys for Wildlife Movement Corridors.*** *Require that sites with suitable natural habitat, including creek corridors through urbanized areas, be surveyed for the presence or absence of important wildlife corridors prior to development approval. Such surveys should be conducted by a qualified biologist and occur prior to development-related vegetation removal or other habitat modifications.*
- ***New or Modified Program: Consider Risk of Bird Collision.*** *Require that taller structures be designed to minimize the potential risk of bird collisions using input from the latest bird-safe design guidelines and best management practice strategies to reduce bird strikes.*
- ***New Program: Bird Safe Design Ordinance.*** *Develop and adopt a Bird Safe Design ordinance to provide specific criteria and refined guidelines as part of design review of new buildings and taller structures.*

G. IMPACT CULT-2: IMPLEMENTATION OF THE PROPOSED PROJECT COULD HAVE THE POTENTIAL TO CAUSE A SIGNIFICANT IMPACT TO AN ARCHAEOLOGICAL RESOURCE PURSUANT TO CEQA GUIDELINES SECTION 15064.5.

The Final EIR finds that future development through implementation of the General Plan 2040 and the Downtown Precise Plan could result in impacts to archaeological deposits that meet the definition of historical resource under CEQA Section 21084.1 or CEQA Guidelines Section 15064.5. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

Implementation of Mitigation Measure CULT 2, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-2: *To ensure sites where archeological resources are unearthed during the construction phase of development projects are mitigated to an acceptable level, the City shall amend Program CDP-5.13A (Archeological Resources Ordinance).*

- **Modify Program CDP-5.13A:** *Update Archeological Resources Ordinance. The City of San Rafael shall modify the City's Archeological Resources Ordinance to include construction best management practices to follow if a potentially significant archaeological resource is encountered during ground disturbing activities.*

H. IMPACT CULT-3: GROUND-DISTURBING ACTIVITIES AS A RESULT OF FUTURE DEVELOPMENT IN THE EIR STUDY AREA COULD ENCOUNTER HUMAN REMAINS, THE DISTURBANCE OF WHICH COULD RESULT IN A SIGNIFICANT IMPACT UNDER CEQA.

The Final EIR finds that human remains associated with precontact archaeological deposits could exist in the EIR Study Area and could be encountered at the time potential future development from implementation of the General Plan 2040 and the Downtown Precise Plan occurs.

Implementation of Mitigation Measure CULT 3, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-3: *To ensure human remains that are unearthed during the construction phase of development projects are protected, the City shall adopt a new Program to support Policy CDP-5.13 (Protection of Archaeological Resources).*

- **New Program: Human Remains.** *Any human remains encountered during ground-disturbing activities would be required to be treated in accordance with California Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98, and the California Code of Regulations Section 15064.5(e) (CEQA), which state the mandated procedures of conduct following the discovery of human remains.*

I. IMPACT CULT-4: GROUND-DISTURBING ACTIVITIES AS A RESULT OF FUTURE DEVELOPMENT UNDER THE PROPOSED PROJECT COULD ENCOUNTER TRIBAL CULTURAL RESOURCES, THE DISTURBANCE OF WHICH COULD RESULT IN A SIGNIFICANT IMPACT UNDER CEQA.

The Final EIR finds that impacts from future development from implementation of the General Plan 2040 and the Downtown Precise Plan, could impact unknown archaeological resources, including Native American artifacts and human remains.

Implementation of Mitigation Measure CULT 4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure CULT-4: *Implement Mitigation Measures CULT-2 and CULT-3.*

J. IMPACT GEO-6: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD HAVE THE POTENTIAL TO DIRECTLY OR INDIRECTLY AFFECT A UNIQUE PALEONTOLOGICAL RESOURCE.

The Final EIR finds that although no fossils, unique paleontological resources, or unique geologic features have been recorded in the EIR Study Area, the geological formations underlying the EIR Study Area have the potential to contain unique paleontological resources, which could be disturbed from implementation of the General Plan 2040 and the Downtown Precise Plan.

Implementation of Mitigation Measure GEO-6, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure GEO-6: *To ensure sensitive and unique paleontological resources are not directly or indirectly affected in the event that such resources are unearthed during project grading, demolition, or building (such as fossils or fossil-bearing deposits), the City shall adopt the following new General Plan Policy and associated Program:*

- ***New Policy:*** *Paleontological Resource Protection. Prohibit the damage or destruction of paleontological resources, including prehistorically significant fossils, ruins, monuments, or objects of antiquity, that could potentially be caused by future development.*
- ***New Program:*** *Paleontological Resource Mitigation Protocol. The City shall prepare and adopt a list of protocols in accordance with Society of Vertebrate Paleontology standards that protect or mitigate impacts to paleontological resources, including requiring grading and construction projects to cease activity when a paleontological resource is discovered so it can be safely removed.*

K. IMPACT HAZ-4: POTENTIAL FUTURE DEVELOPMENT COULD RESULT IN CONSTRUCTION AND OPERATION ACTIVITIES ON SITES WITH KNOWN HAZARDOUS MATERIALS AND, AS A RESULT, CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT.

The Final EIR finds that within the EIR Study Area, 31 hazardous materials sites designated as active are listed on databases compiled pursuant to Government Code Section 65962.5. Although implementation of the proposed General Plan 2040 and the Downtown Precise Plan anticipates that potential future development and redevelopment could occur on existing vacant or infill sites in urban areas, the location of potential future development is unknown and may occur on sites included on the hazardous materials sites databases.

Implementation of Mitigation Measure HAZ-4, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure HAZ-4: *To ensure that construction on sites with known contamination (including sites in the DTSC EnviroStor database and the State Water Resource Control Board's online GeoTracker database) do not result in or create a significant hazard to the public or the environment, the City shall adopt the following General Plan programs to support Policy S-5.4 (Development on Formerly Contaminated Sites). These programs shall be implemented as part of the project approval process:*

- ***New Program: Environmental Site Management Plan.*** *Require the preparation of an Environmental Site Management Plan (ESMP) in consultation with the San Francisco Bay Regional Water Quality Control Board and/or the Department of Toxic Substance Control, for proposed development on sites with known contamination of hazardous materials pursuant to Government Code Section 65962.5, which include, but are not limited to, the Department of Toxic Substance Control's online EnviroStor database and the State Water Resource Control Board's online GeoTracker database.*
- ***New Program: Soil Vapor Intrusion Assessment.*** *For sites with potential residual contamination in soil or groundwater that are planned for redevelopment with an overlying occupied building, a soil vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements.*

L. IMPACT NOISE-1: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD EXPOSE SENSITIVE RECEPTORS IN CLOSE PROXIMITY TO A CONSTRUCTION SITE TO NOISE THAT EXCEED THE CITY'S NOISE LIMITS ESTABLISHED IN SAN RAFAEL MUNICIPAL CODE CHAPTER 8.13, NOISE.

The Final EIR finds that the City has established construction noise limits for potential future projects consistent with General Plan 2040 and the Downtown Precise Plan. General Plan 2040 Program N-1.9B, Construction Noise, requires the City to use the environmental review process to identify measures to reduce the exposure of neighboring properties to excessive noise levels from construction activity. However, the program does not specifically address the use of routine best management practices that would further ensure that noise impacts from construction are reduced to acceptable levels.

Implementation of Mitigation Measure NOISE-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-1: *To ensure receptors that are sensitive to construction noise are not exposed to unacceptable construction noise levels as defined in San Rafael Municipal Code Chapter 8.13, Noise, for discretionary development projects that are subject to CEQA the City shall amend Program N-1.9B (Construction Noise) as follows:*

- ***Modified Program: Construction Best Management Practices.*** *The City shall establish a list of construction best management practices to be implemented during the construction phase and incorporated into San Rafael Municipal Code Chapter 8.13, Noise. The City of San Rafael Building Division shall verify that these notations, as appropriate, are on the demolition, grading, and construction plans prior to issuance of demolition, grading and/or building permits.*

M. IMPACT NOISE-2A: CONSTRUCTION ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD GENERATE EXCESSIVE SHORT-TERM VIBRATION LEVELS DURING PROJECT CONSTRUCTION.

The Final EIR finds that construction of future projects from implementation of the General Plan 2040 and the Downtown Precise Plan could generate varying degrees of ground vibration, depending on the construction procedures and equipment. Vibration generated by construction equipment has the potential to be substantial and may exceed the FTA criteria for architectural damage.

Implementation of Mitigation Measure NOISE-2a, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-2a: *To ensure receptors that are sensitive to vibration from construction noise are not exposed to unacceptable vibration levels from discretionary development projects that are subject to CEQA the City shall revise General Plan Program N-1.11A (Vibration-Related Conditions of Approval) as follows.*

- **Modified Program N-1.11A: Construction Vibration-Related Conditions of Approval.** *Adopt standard conditions of approval in San Rafael Municipal Code Chapter 8.13, Noise, that require the Federal Transit Administration (FTA) criteria for acceptable levels of groundborne vibration for various types of buildings be applied to reduce the potential for vibration-related construction impacts for development projects near sensitive uses such as older or historically significant buildings and structures, housing, and schools. If vibration levels exceed the FTA limits, the condition of approval shall identify alternative construction methods, such as drilling piles instead of pile driving and static rollers instead of vibratory rollers. Construction vibration impacts shall be considered as part of project level environmental evaluation and approval for individual future projects.*

N. IMPACT NOISE-2B: OPERATIONAL ACTIVITIES ASSOCIATED WITH POTENTIAL FUTURE DEVELOPMENT COULD GENERATE EXCESSIVE LONG-TERM VIBRATION LEVELS.

The Final EIR finds that future commercial and industrial operations from implementation of the General Plan 2040 and the Downtown Precise Plan could generate varying degrees of ground vibration, depending on the operational procedures and equipment. The results from vibration can range from no perceptible effects at the lowest levels, to perceptible vibration at moderate levels, to slight structural damage at the highest levels. The City does not have any adopted standards for operational vibration.

Implementation of Mitigation Measure NOISE-2b, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure NOISE-2b: *To ensure receptors that are sensitive to operational vibration from commercial or industrial uses are not exposed to unacceptable vibration levels from discretionary development projects that are subject to CEQA the City shall adopt the following General Plan Program to support Policy N-1.11 (Vibration) to be implemented as part of the project approval process:*

- **New Program:** *Adopt standard conditions of approval in San Rafael Municipal Code Chapter 8.13 that require the use of Federal Transit Administration (FTA) criteria for*

acceptable levels of groundborne vibration from commercial or industrial uses to reduce long-term vibration impacts at existing or potential future sensitive uses such as uses with vibration-sensitive equipment (e.g., microscopes in hospitals and research facilities) or residences. Operational vibration impacts shall be considered as part of project level environmental evaluation and approval for individual future projects.

VI. ALTERNATIVES

The Final EIR analyzed three alternatives to the Project, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet Project objectives. The Project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section VII, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. THE NO PROJECT ALTERNATIVE: CURRENT GENERAL PLAN

Pursuant to CEQA Guidelines Section 15126.6(e)(1), the No Project Alternative is required as part of the “reasonable range of alternatives” to allow decision makers to compare the impacts of approving the proposed project with the impacts of taking no action or not approving the proposed project. Consistent with CEQA Guidelines Section 15126.6(e)(3)(A), when the project is the revision of a plan, as in this case, the no project alternative will be the continuation of the existing plan. Under Alternative A, potential future development in San Rafael would continue to be subject to existing policies, regulations, development standards, and land use designations of the existing General Plan 2020 and Zoning Code.

As shown in Draft EIR Table 5-3, the No Project Alternative would allow for the following remaining development growth:

- Households: 1,715
- Residential units: 1,815
- Population: 8,910
- Jobs: 5,745

When compared to the Project, implementation of the No Project Alternative would result in less overall development potential, and therefore fewer impacts related to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and noise. However, each of these topic areas were found to be less than significant under the Project with implementation of the Project’s goals, policies and programs and Mitigation Measures BIO-1, BIO-2, BIO-3, BIO-4, CULT-2, CULT-3, CULT-4, GEO-6, HAZ-4, NOISE-1, NOISE-2a, and NOISE-2b. Therefore, adoption of the No Project Alternative does not strictly reduce impacts merely because it allows for less development. As demonstrated in Chapter 4.16, Transportation, the Total VMT Per Service Population and Work VMT Per Employee would be greater under the No Project Alternative than the proposed project (29.5 Total VMT Per Capita compared to 28.1 Total VMT Per Capita and 17.5

Work VMT Per Employee compared to 16.9 Work VMT Per Employee). The No Project Alternative would not include the Downtown Precise Plan, therefore, the urban design, placemaking, historic preservation, transportation, parking, economic development, affordable housing, and anti-displacement strategies included in the Downtown Precise Plan would not be realized in Alternative A. Impacts related to VMT and consequently, air quality and GHG emissions would be greater than the Project.

While the current (2020) General Plan includes goals, policies, and programs that reduce impacts to the environment, the No Project Alternative does not include the improved and enhanced goals, policies, and programs that address the distinct issues and opportunities that the San Rafael community is likely to face during the updated planning horizon of the proposed (2040) General Plan. The proposed policies of the Land Use and Mobility Elements have been carefully prepared to reduce and/or avoid impacts to the environment as a result of future development. These policies aim to reduce VMT, greenhouse gas emissions, air quality pollutants, energy consumption, water demand, and solid waste generation by promoting infill development; increasing opportunities for alternative modes of transportation, pedestrian, and bicycle access and connectivity, and local jobs; protecting open space; conserving natural resources; and requiring adherence to green building practices. New General Plan policies aim to avoid hazardous conditions and facilitate a healthy and safe environment for residents and visitors to San Rafael. In addition, new General Plan policies aim to protect cultural resources and ensure that new development and redevelopment is compatible with neighboring land uses.

As discussed in Section 5.4.3 of the Draft EIR, the No Project Alternative would not satisfy the Project objectives. The No Project Alternative would not include principles focused on adapting to the future, economic vitality, opportunity for all, providing additional housing, mobility and building on the City's foundation. It is also implicitly inconsistent with regional plans and forecasts since it has a horizon year of 2020 and does not cover the 2020-2040 period. For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

B. GREATER RESIDENTIAL GROWTH ALTERNATIVE

Section 5.5.1 of the Draft EIR shows the difference between the growth projections of the proposed project compared to the Greater Residential Growth Alternative. As shown in DEIR Table 5-4, the Greater Residential Growth Alternative would result in an increase of 1,580 households, 1,670 residential units, and 3,590 residents above and beyond the increase projected under the proposed project.

Because the Greater Residential Growth Alternative would include more aggressive housing production, a potential loss of light industrial, office, and retail jobs is presumed. This Alternative presumes development of all the 2015–2023 Housing Element sites, all of the potential housing and mixed-use sites identified in the Downtown Precise Plan, and additional residential development at various locations throughout the EIR Study Area. The Greater Residential Growth Alternative presumes the same General Plan land use designations as the proposed project, except that two sites, one undeveloped and one industrial, would be re-designated as residential. Further, the Greater Residential Growth Alternative would result in a high-density land use designation change on one site that is currently designated Hillside Resource Residential.

When compared to the Project, implementation of this alternative would result in less impacts related to air quality, greenhouse gas emissions, noise, and transportations. Impacts to Cultural and Tribal Cultural Resources, Public Services and Recreation and Utilities and Service Systems would be greater under the Greater Residential Growth Alternative, however because the Greater

Residential Growth Alternative assumes that the same General Plan goals, policies and programs and recommended mitigation measures AIR-2.1, AIR-3.1a, AIR-3.1b, NOISE-1, NOISE-2A, NOISE-2B, impacts would be reduced with application of the mitigating features of the project and the mitigation measures enforced through implementation of the MMRP. Mitigation Measures AIR-2.2, AIR-3.2, CULT-1, TRAN-1a, TRAN-1B and TRAN-6 would not reduce impacts to less than significant due to the programmatic nature of the General Plan 2040 and Downtown Precise Plan. The Greater Residential Growth Alternative would result in more housing and population growth in the EIR Study Area when compared to the proposed project. However, such growth would generally occur in the same locations as included in the proposed project, which were chosen based on their appropriateness in fulfilling the City's goals of focusing infill development in existing urban areas near public transportation. Therefore, the Increased Residential Growth Alternative would meet the project objectives. However, this identification does not in and of itself mean this is the most appropriate alternative to fulfill the vision and Project objectives for the General Plan 2040 and the Downtown Precise Plan.

The Project is a reflection of the community's vision as identified through the General Plan 2040 and Downtown Precise Plan, which are based on a robust community engagement process. This alternative, therefore, does not fully achieve the community's vision because it reduces the overall number of jobs, could affect additional historic resources which are highly valued in the community, and could result in increased VMT and demands on utility and service systems resulting from the larger projected population. It is also inconsistent with regional forecasts and presumes more housing growth in San Rafael than is presumed by Plan Bay Area 2040 and other regional forecasts. As such it would be inconsistent with the plans and programs developed by other agencies that use these forecasts for their long-range planning and could potentially conflict with regional sustainability and smart growth objectives. For the foregoing reasons, the Greater Residential Growth Alternative is hereby rejected as infeasible.

C. LOWER RESIDENTIAL GROWTH ALTERNATIVE

Section 5.6.1 of the Draft EIR shows the difference between the growth projections of the proposed project compared to the Lower Residential Growth Alternative. As shown in DEIR Table 5-5, the Lower Residential Growth Alternative would result in 1,390 fewer households, 1,455 fewer residential units, 3,085 fewer residents, and 125 additional jobs. when compared to the proposed project. The Lower Residential Growth Alternative presumes the same General Plan land use designations as the proposed Project and differs only in the presumed rate of growth. Alternative C excludes several 2015–2023 Housing Element sites and Downtown Precise Plan sites included in the proposed Project. This alternative would convert less commercial acreage to housing, which results in a slightly higher total of jobs anticipated by 2040.

Overall, the Lower Residential Growth Alternative would result in greater impacts on Air Quality, Energy, GHG emissions, and Transportation compared to the Project. Impacts to Cultural and Tribal Cultural Resources, Public Services and Recreation, and Utilities and Service Systems would be lower compared to the Project. The alternatives analysis assumes that all applicable mitigation measures recommended for the General Plan 2040 and the Downtown Specific Plan goals, policies, and programs would apply to the Lower Residential Growth Alternative. Therefore, recommended mitigation measures AIR-2.1, AIR-3.1a, AIR-3.1b, impacts would be reduced with application of the mitigating features of the project and the mitigation measures enforced through implementation of the MMRP. Mitigation Measures AIR-2.2, AIR-3.2, CULT-1, TRAN-1a, TRAN-1B and TRAN-6 would not reduce impacts to less than significant levels due to the programmatic nature of the General Plan 2040 and the Downtown Precise Plan.

The Lower Residential Growth Alternative would result in less housing and population growth in the EIR Study Area when compared to the proposed project. As discussed in Chapter 3, Project Description, of the Draft EIR, the proposed project specifically plans for infill development in existing urban areas near public transportation to meet City goals. While the growth in Alternative C would occur in the same locations as the proposed project, Alternative C would result in less overall development, which would mean that the City would not meet its goal of providing adequate development to accommodate its growing population. This alternative would also fall short of the ABAG PBA 2040 population forecasts. For all of these reasons, the Lower Residential Growth Alternative does not meet all the project objectives as outlined in the proposed project. For this reason, the Lower Residential Growth Alternative is rejected as infeasible.

D. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

In addition to the discussion and comparison of impacts of the proposed project and the alternatives, Section 15126.6 of the CEQA Guidelines requires that an “environmentally superior” alternative be identified. In general, the environmentally superior alternative is an alternative to the proposed project that would be expected to generate the least number of significant impacts. This is an informational procedure and meeting the goals or needs of San Rafael is not a pre-requisite for this alternative. In addition, CEQA Guidelines preclude the city from identifying the proposed project as the environmentally superior alternative. CEQA Guidelines further prescribe that if the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

A summary of the impacts shown in Table 5-2 in Section 5.5.2 of the Draft EIR for each alternative is as follows:

- » Alternative A would, in comparison to the project, result in reduced environmental impacts related to aesthetics, and utilities and service systems, but would ultimately result in greater impacts related to air quality, biological resources, cultural resources (historic buildings), energy, GHG emissions, noise (operational), and transportation.
- » Alternative B would, in comparison to the project, result in reduced environmental impacts related to air quality, energy, GHG emissions, noise (operational), and transportation, but would result in greater impacts to cultural resources (historic buildings) and utilities and service systems.
- » Alternative C would, in comparison to the project, result in reduced environmental impacts related to aesthetics, cultural resources (historic buildings), and utilities and service systems, but would have greater impacts to related to air quality, energy, GHG emissions, noise (operational), and transportation.

Therefore, as shown in Table 5-2, Alternative B would be the environmentally superior alternative.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, cultural resources, greenhouse gas emissions, and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project’s significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided

or substantially lessened, the agency must state in writing the reasons to support its actions (see also Public Resources Code Section 21081(b)). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The City finds that each of the Project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

ECONOMIC BENEFITS

1. The Project would promote a vibrant economy by supporting a diversity of business and employment opportunities. The Land Use Map includes multiple commercial and industrial designations corresponding to different employment types, providing opportunities for businesses and jobs in all sectors of the economy.
2. The Project provides for economic growth by planning for 4,115 jobs, allowing the city to remain a competitive and innovative business destination in the regional development environment, which would support increased municipal tax revenues.
3. The Project recognizes economic trends and includes programs to proactively address them. The Project includes specific measures to address retail and office vacancies and maintain the vibrancy of neighborhood commercial centers.
4. The Project protects industrial land from incompatible uses and retains significant acreage for production, distribution, repair, and marine-related activities.
5. The Project provides for greater zoning flexibility and "innovation districts," creating greater opportunities for mixed uses and other creative new development types, in anticipation of and response to structural changes in the retail sector.
6. The Project include provisions for workforce housing and additional affordable housing at all levels to provide more housing choices for those who work in San Rafael.
7. The Project envisions a thriving downtown that is the cultural, entertainment, and economic hub of Marin County, including opportunities for height bonuses and economic incentives for historic preservation and affordable housing. It anticipates and responds to structural changes in the retail sector.
8. The Project includes transportation and infrastructure improvements necessary to keep San Rafael economically competitive and capitalizes on recent investments in regional infrastructure such as Sonoma Marin Area Rail Transit.
9. The Project recognizes the importance of cultural arts to the local economy and includes programs to strengthen arts and entertainment, and the hospitality sector in general.
10. The Project promotes partnerships between the business community, the City, and local non-profits to advance the success of local businesses and meet business needs.
11. The Project includes new strategies for expanding and sustaining existing businesses and attracting new businesses to San Rafael.

12. The Project includes workforce development programs and equity strategies to improve education, job training, skill building, and hiring of local residents at all income levels.
13. The Project supports economically productive use of land, including revitalization of blighted, underutilized and vacant properties.
14. The Project strives to improve the physical qualities of the city's business districts, making San Rafael a more attractive place to live, work, dine, shop, and play.

ENVIRONMENTAL BENEFITS

1. The Project is environmentally superior to the existing General Plan, as discussed in Draft EIR Chapter 5 and summarized above in Section VI(A) of these Findings.
2. The Project includes a Conservation and Climate Change Element that provides a framework for climate change action planning and greenhouse gas reduction.
3. The Project recognizes the need for climate adaptation planning and includes proactive measures addressing sea level rise and wildfire prevention, as well as other climate-related hazards.
4. Notwithstanding EIR findings regarding GHG emissions, the Plan amplifies and strengthens Climate Change Action Plan programs to electrify building systems, develop and implement a zero emission vehicles plan, and implement community composting requirements.
5. Notwithstanding EIR findings regarding VMT increases, the Project includes strategies to reduce VMT per capita below existing levels by locating new development near transit, making transit more viable, encouraging mixed uses, and implementing trip reduction strategies that create alternatives to single occupancy vehicle commuting.
6. The Project concentrates growth in existing urbanized areas and thereby results in fewer impacts from the expansion of infrastructure into undeveloped greenfield areas. It minimizes the expansion of impervious surfaces, provides strategies to restore permeable surfaces where possible, and encourages low impact development and on-site retention of stormwater.
7. The Project's Community Design and Preservation Element includes policies and programs to protect hillsides, enhance the shoreline, maintain greenways, and plant street trees throughout the city.
8. The Project includes new and updated policies and programs to protect wetlands, restore creeks, protect wildlife and special status species, protect trees and reduce invasive plants, mitigate the impacts of mineral resource extraction, and maintain dark skies.
9. Notwithstanding EIR findings regarding air quality emissions, the Project includes new and updated policies and programs to improve air quality, including coordinating land use

and transportation planning to reduce driving and evaluating impacts on sensitive receptors.

10. The Project includes new and updated policies and programs to improve water quality, including protecting groundwater, capturing and filtering stormwater, reducing pollution from urban runoff, and protecting nearshore waters in San Rafael and San Francisco Bays.
11. The Project includes new measures to conserve water and energy, reduce solid waste disposal, promote composting and recycling, and encourage more sustainable living.
12. The Project sustains protection of local open space.

SOCIAL BENEFITS

1. The Project includes a new Equity, Diversity, and Inclusion Element that strives for greater social justice, inclusion of all residents in community life, and plans and programs to assist lower income and non-English speaking households.
2. The Project includes policies and programs to engage all residents, regardless of income, language, or family status, in governance and public processes.
3. The Project uses an “equity lens” for prioritizing future capital improvement projects, with an emphasis on lower income areas and disadvantaged communities.
4. The Project includes policies and programs achieving environmental justice and improved public health outcomes, including increased park land, pedestrian and bicycle improvements, better access to healthy food, community gardening opportunities, and quality health care, with a focus on lower income neighborhoods.
5. The Project provides for substantially more housing than General Plan 2020, particularly higher density housing that has a greater likelihood of being affordable.
6. The General Plan and Downtown Precise Plan both include anti-displacement policies, and the Precise Plan includes an affordable housing production and anti-displacement strategy.
7. The Project provides opportunities for increased building heights for projects that provide community benefits and affordable housing.
8. The Project includes policies and programs recognizing the needs of older adults and persons with disabilities.
9. The Project promotes a stronger sense of community through additional public spaces.
10. The Project includes new programs supporting emergency preparedness and resilience, including programs engaging lower income and non-English speaking residents.
11. The Project supports greater transportation choices, including public transit, and safer conditions for bicycling and walking.

VIII. ADOPTION OF THE MMRP

The City Council hereby adopts the mitigation measures set forth for the Project in the Final EIR and the MMRP attached hereto as Exhibit A and incorporated herein by this reference.

IX. SEVERABILITY

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

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 2nd day of August 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

EXHIBIT A (by hyperlink): Final Environmental Impact Report

RESOLUTION NO.

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING
SAN RAFAEL GENERAL PLAN 2040**

WHEREAS, California Government Code Section 65300 requires that each county and city in the State adopt a comprehensive, long-range general plan to address community growth, physical development, and planning of citywide programs; and

WHEREAS, the current San Rafael General Plan 2020 was adopted on November 15, 2004 and was periodically amended thereafter; and

WHEREAS, the current General Plan has a horizon year of 2020 and does not reflect current long-range forecasts, or fully respond to changing community issues and recent State mandates; and

WHEREAS, in January 2017, the Community Development Department prepared the City of San Rafael General Plan 2040 Summary Report and Preliminary Work Program, which included a recommendation for a three-year general plan update process; and

WHEREAS, in February 2017, the City Council of the City of San Rafael adopted Resolution No. 14276 initiating a process to prepare General Plan 2040, moving the time horizon forward 20 years and comprehensively updating policies and programs; and

WHEREAS, Resolution No. 14276 further directed staff to assemble a General Plan Steering Committee and hire a General Plan Project Manager, and staff proceeded with both of these actions in 2017; and

WHEREAS, staff solicited applications for a Steering Committee, interviewed prospective applicants, and recommended to the City Council in December 2017 the appointment of primary members and alternates to the Steering Committee; and

WHEREAS, on December 4, 2017, the City Council amended Resolution No. 14276 approving the appointment of 23 named members and 22 named alternates to the General Plan Steering Committee, and approving Steering Committee bylaws, and the appointment of a Councilmember to the Committee and a second Councilmember as an alternate; and

WHEREAS, on March 5, 2018, the City Council adopted Resolution No. 14478, which established a detailed work program and budget for the General Plan Update, including specific data collection, analysis, environmental review, and policy and program development tasks; and further authorized expenditures from the General Plan Maintenance and Implementation Account (Fund 218) to cover the costs associated with the update; and authorized staff to issue requests for proposals for professional services to undertake technical work associated with the update; and

WHEREAS, on August 6, 2018, the City Council adopted Resolution No. 14556 expanding the General Plan Steering Committee to 24 members and 22 alternates; and

WHEREAS, the General Plan Steering Committee met 25 times over a period of 27 months to develop guiding principles for San Rafael’s future; review audits of existing General Plan policies and programs; review draft new policies and programs; review the new Draft Land Use Map and categories; consider community input; and discuss issues related to San Rafael’s future; and

WHEREAS, each meeting was duly noticed and open to the public, with an opportunity for public comment, publication of agendas, minutes, and staff reports, and documentation of meeting outcomes; and

WHEREAS, the City sponsored an extensive community engagement program that included the following components:

- Three community workshops, convened in Fall 2018, with over 100 participants, including instant-result surveys with digital voting devices.
- Staff attendance at more than 30 meetings with neighborhood and homeowner association groups between 2018 and 2020 to discuss the General Plan, respond to questions, and solicit input.
- Staff attendance at meetings of advocacy and stakeholder groups such as the Downtown Business Improvement District, Chamber of Commerce, Marin Conservation League, San Rafael Heritage, Federation of San Rafael Neighborhoods, Responsible Growth in Marin, and others to provide presentations on the General Plan and receive input on relevant issues.
- Staff delivered multiple presentations to, and incorporated feedback from, the Bicycle and Pedestrian Advisory Committee; the Citizens Advisory Committee on Economic Development and Affordable Housing; the Quarterly Climate Action Forum; the Design Review Board; the Park and Recreation Commission; the Pickleweed Advisory Committee; and the Planning Commission.
- Staff developed a survey that was administered to neighborhood associations across the city and worked with each organization’s board or members to receive input, receiving written input from 19 organizations, including those representing Terra Linda, Mont Marin/ San Rafael Park, Rafael Meadows, Los Ranchitos, West End, Sun Valley, California Park, Fairhills, Lincoln/ San Rafael Hill, Gerstle Park, Bret Harte, Picnic Valley, Montecito, Loch Lomond, Glenwood, Peacock Gap, Canal, Spinnaker/ Bay Point, and the East San Rafael Working Group.
- Staff developed and implemented a Spanish language outreach program, including bilingual workshops, workshops with translation services, materials produced in Spanish, capacity-building workshops run in collaboration with the Canal Alliance; and interviews with over 100 residents in Spanish.
- A project website was created, with content that was refreshed weekly, providing access to all project publications and meeting notices, and including hyperlinks to topics of interest.
- An interactive website hosted on the “Neighborland” platform was developed, including community discussion threads on long-range planning topics, with more than 300 subscribers.

- Pop-up workshops were convened at the San Rafael Downtown Farmers Market and the Art Walk, including interactive exhibits and information on the General Plan, with more than 100 participants.
- A collaboration with Youth in Arts, Y-Plan, and San Rafael Schools occurred, including engagement of 3rd, 4th, and 5th graders from Laurel Dell Elementary in a semester-long planning course, culminating in presentations to the General Plan Steering Committee.
- Six City Council progress reports on the General Plan were presented, providing additional opportunity for public comment, and opportunities for Council feedback on key issues and policy choices.
- Press releases, news articles, and regular updates about the General Plan were provided in City publications.
- Parallel community engagement activities were held through the Downtown Precise Plan, including a three-day design charrette attended by more than 100 people; and

WHEREAS, Staff developed new land use categories, consolidated several categories, adjusted density ranges and permitted uses, and added a “sea level rise overlay” to the Land Use Map, and published the Draft General Plan 2040 Map in 2019; and

WHEREAS, Staff prepared, published, and advertised a “Call for Amendments” to the General Plan in 2019, and received and evaluated requests for Land Use Map changes, presented its recommendations to the Planning Commission and City Council; and received direction from the Commission and Council on its recommendations; and

WHEREAS, Staff completed a comprehensive “audit” of every goal, policy, and program in General Plan 2020, and identified whether each statement should be deleted, carried forward, edited, or replaced; and

WHEREAS, Staff and the consultant team developed a comprehensive data base of “existing conditions” material related to land use, transportation, economics, demographics, community services, parks and open space, natural resources, hazards, historic preservation, arts and culture, environmental justice, and noise, which informed policy and program choices; and

WHEREAS, Staff provided the technical analysis necessary to evaluate Plan alternatives, including growth projections for more than 300 traffic zones and traffic modeling for Year 2040 under different scenarios; and

WHEREAS, Staff developed new policy and program language to reflect recent State planning laws, including new standards for Vehicle Miles Traveled (SB 743), an Environmental Justice Element (SB 1000), and adoption of the Local Hazard Mitigation Plan as part of the General Plan (SB 379); and

WHEREAS, Staff incorporated new policy and program direction into the General Plan as provided by the Bicycle and Pedestrian Master Plan, the Station Area Plans for Downtown and Civic Center SMART stations, the Climate Change Action Plan, and the Wildfire Prevention and Protection Action Plan; and

WHEREAS, Staff developed two sea level rise “white papers” and new General Plan policies addressing sea level rise, incorporating current forecasts, guidance from BayWAVE, and best practices on resilience and adaptation; and

WHEREAS, the Planning Commission convened a public hearing on February 11, 2020 and the City Council convened a public hearing on February 18, 2020 to review the proposed General Plan Land Use Map, including proposed amendments; and

WHEREAS, the City published working draft General Plan goals, policies, and actions throughout 2019 and early 2020, revised the goals, policies, and actions in response to Steering Committee input, and published a Compendium of all goals, policies, and actions in May 2020; and

WHEREAS, the City published a Public Review Draft General Plan 2040 in October 2020, including the following components:

- A new “**Framework**” section that describes the forces driving change in the city, forecasts for the future, and Guiding Principles
- An updated **Land Use Element** that provides guidance on the use of land, including growth and development policies and policies for specific uses.
- An updated and substantially reorganized **Neighborhoods Element** that identifies five planning areas in San Rafael and includes more specific land use policies for each area.
- An updated **Community Design and Preservation Element** that focuses on creating and maintaining a strong sense of place in San Rafael, and enhancing the appearance of streets, buildings, and public space, and the preservation of historic resources.
- An expanded **Conservation and Climate Change Element** that addresses San Rafael’s natural resources, including wetlands, creeks, hillsides, wildlife and plant life, minerals, air and water quality, and trees, as well as policies to reduce greenhouse gas emissions and address global climate change.
- An updated **Parks, Recreation, and Open Space Element** that guides planning for parks, delivery of recreational services, and management of natural open spaces in the city.
- An updated **Safety and Resilience Element** that includes policies and programs to minimize potential losses associated with future earthquakes, landslides, erosion, flooding (including sea level rise), wildfire, and hazardous materials incidents.
- An updated **Noise Element** that includes policies and programs to reduce the impacts of excessive noise in the community.
- An updated **Mobility Element** that addresses all modes of travel in the city and provides guidance on issues such as parking, safety, traffic calming, and congestion management.
- A new **Community Services and Infrastructure Element** that addresses services such as schools, libraries, police, fire, and infrastructure, including water, sewer, drainage, telecommunication, and solid waste facilities.
- An expanded **Arts and Culture Element** that addresses the importance of the arts to the quality of life, the local economy, and San Rafael’s cultural diversity.
- An updated **Economic Vitality Element** that strives to maintain economic diversity and fiscal health, sustain San Rafael as a good place to do business, and improve work opportunities for local residents.

- A new **Equity Diversity and Inclusion Element** with policies to reduce income inequality, increase housing security, ensure environmental justice, and provide a greater voice for lower income residents in local government; and

WHEREAS, the City has a State-certified Housing Element covering 2015-2023 and is required by law to adopt a new Housing Element by January 15, 2023, and as such did not include an update of the Housing Element in the General Plan 2040; and

WHEREAS, the Planning Commission received an informational report on General Plan 2040 on September 15, 2020 and convened noticed public hearings on General Plan 2040 on October 27, November 12, and December 15, 2020; and

WHEREAS, the General Plan Update is defined as a “project” under the California Environmental Quality Act (CEQA) and was determined to require preparation of an Environmental Impact Report (EIR); and

WHEREAS, in accordance with State law, the City issued a Notice of Preparation (NOP) for the Draft EIR on March 19, 2019; distributed the NOP to Federal, State, regional and local agencies and to interested parties; convened a Scoping Session on the Draft EIR on April 23, 2019; and provided a 30-day window for public comments; and

WHEREAS, the City published a Draft EIR for Draft General Plan 2040 and the Downtown Precise Plan on January 7, 2021; circulated the Draft EIR to the State Clearinghouse, local agencies, and members of the public; and advertised it for availability for a 62-day public and agency comment period ending on March 9, 2021; and

WHEREAS, the Planning Commission convened a public hearing on the Draft EIR on March 9, 2021; and

WHEREAS, comments on the Draft EIR were received, and responses were prepared, and revisions to the EIR and General Plan were made accordingly; and

WHEREAS, a Final EIR was published on May 23, 2021, including Responses to Comments; and

WHEREAS, written comments and oral testimony on the Draft General Plan 2040 were received in October, November, and December 2020 and continued to be received in January, February, and March 2021; and

WHEREAS, staff prepared responses to these written comments and posted the responses to the project website as they were received, including a description of changes that would be made to the General Plan in light of the comment; and

WHEREAS, staff produced a redlined (“tracked change”) draft of the General Plan in May 2021 highlighting each edit made in response to public comment, as well as editorial clarifications and corrections, and posted that document to the website in chapters between May 23 and June 4, 2021; and

WHEREAS, the Planning Commission considered the staff changes to the October 2020 Draft General Plan and provided subsequent opportunities for public comment on this Draft at duly noticed public hearings on June 15 and June 29, 2021; and

WHEREAS, on June 15, 2021, the Planning Commission approved Resolution No. 2021-02 finding that the General Plan 2040 was completed in compliance with CEQA; that the Final EIR was legally sufficient, not only for approval of General Plan 2040 but also for subsequent actions such as projects that are consistent with General Plan 2040, including rezonings, prezonings, annexations, and revisions to the San Rafael Municipal Code and other regulations that implement General Plan 2040; and that the Final EIR reflects the independent judgment of the City of San Rafael and the Planning Commission of the City of San Rafael. The Planning Commission further recommended City Council certification of the Final EIR; and

WHEREAS, on June 29, 2021, the Planning Commission approved Resolution No. 2021-03 recommending that the City Council adopt CEQA Findings of Fact, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Program for General Plan 2040 and the Downtown Precise Plan; and

WHEREAS, on June 29, 2021 the Planning Commission approved Resolution No. 2021-04 recommending that the City Council adopt General Plan 2040; and

WHEREAS, on July 19, 2021, the City Council adopted a resolution certifying the Final EIR for General Plan 2040 and the Downtown Precise Plan; and

WHEREAS, by separate resolution and consistent with the CEQA Guidelines Section 15063, the City has approved the CEQA Statement of Findings of Fact and Statement of Overriding Considerations supporting and substantiating adoption of the General Plan 2040, the Downtown Precise Plan, and the related amendments to SRMC Title 14 – Zoning. This separate resolution also approved a Mitigation Monitoring and Reporting Program (MMRP) to ensure that the required FEIR mitigation measures are incorporated into the project action;

NOW, THEREFORE BE IT RESOLVED that the San Rafael City Council hereby finds and determines that the above recitals are true and correct and, together with the Staff Report, serve as the evidentiary basis, in part, for the actions set forth below.

BE IT FURTHER RESOLVED that upon review and consideration of the Final EIR and other documents prepared as part of General Plan 2040, the City Council makes the following findings regarding General Plan 2040:

1. The public interest would be served by the adoption of the proposed General Plan Amendment in that:
 - a. The amendments will keep the document current, recognize changes in conditions and circumstances, move the time horizon forward to 2040 to reflect new forecasts and respond to emerging issues, comply with recently adopted State laws, recognize actions already taken and actions currently planned, incorporate recently adopted plans and initiatives, and respond to public input;

- b. Changes to the Land Use Element, including new land use categories and density metrics, will positively impact the City's ability to build housing for all income groups, stimulate economic development, respond to climate change, support managed growth and change, and reduce the potential for land use conflicts;
- c. Changes to the Neighborhoods Element will ensure that the General Plan is responsive to the priorities of each San Rafael neighborhood. Moreover, the reorganization of this Element will make it easier to use;
- d. Changes to the Community Design and Preservation Element will support the beautification of the city, continued planting and maintenance of trees and landscaping, and encouragement of high-quality design. Moreover, the consolidation of historic preservation policies in one part of the Plan and the expansion of these policies and programs will support the preservation of San Rafael's heritage and protection of tribal cultural and archaeological resources;
- e. Changes to the Conservation and Climate Change Element will enable the continued protection of wetlands, restoration and conservation of creeks, management of wildlife and habitat, enhancement of air and water quality, and implementation of programs to reduce greenhouse gas emissions and global climate change. Moreover, the addition of sustainability policies to this section of the General Plan will align the General Plan and Climate Change Action Plan, thereby providing a more effective response to the global climate crisis;
- f. Changes to the Safety and Resilience Element will align the General Plan with the Local Hazard Mitigation Plan, as required by SB 379, and ensure a coordinated and effective response to hazards related to earthquakes, landslides, wildfire, flooding, and hazardous material incidents. Moreover, the addition of expanded policies on sea level rise and wildfire prevention will make San Rafael a more resilient community and reduce future losses of life and property;
- g. Changes to the Noise Element will align the City's noise compatibility standards for different land uses with current State standards and further strengthen policies and programs to reduce noise conflicts in the community;
- h. Changes to the Mobility Element will incorporate State requirements to adopt Vehicle Miles Traveled (VMT) metrics for CEQA purposes, while retaining Level of Service (LOS) to manage congestion and ensure that the impacts of development are duly addressed. Moreover, changes to this Element align the City's transportation plans with its climate change strategies and support expanded electric vehicle infrastructure, zero emission vehicles, expansion of the bicycle and pedestrian network, and a viable public transportation system;
- i. The incorporation of a new Community Services and Infrastructure Element carries forward important policies in the former Governance Element and provides essential guidance and standards for the delivery of City of San Rafael services, and the delivery of services provided by other entities including school districts, County parks, water and sewer providers, energy and telecommunication utilities, and the County of Marin;
- j. Changes to the Arts and Culture Element elevate the importance of the arts in planning for the City's future and recognize the arts community as an essential part of San Rafael and contributor to its quality of life;
- k. Changes to the Economic Vitality Element recognize the importance of a diverse, full-service economy to the City, including the generation of revenue for municipal operations, creation of jobs, and provision of convenient goods and services for the residents of San Rafael. Moreover, this Element acknowledges the intersection of the economy and the City's equity goals, including the goal of expanding economic opportunities for all residents;

- l. The incorporation of a new Equity, Diversity, and Inclusion Element meets State requirements under SB 1000, and also responds to an issue of great importance and urgency in San Rafael by defining a pathway to becoming a more inclusive and compassionate city;
 - m. The changes described herein are essential to expanding the City’s capacity to produce housing for all income groups, which will assist in its ability to meet its Regional Housing Needs Allocation for the 2023-2031 planning period; and
 - n. The Plan includes updated Appendices, including detailed implementation matrices for each Element indicating the parties responsible for Plan implementation and the resources available.
2. Adoption of General Plan 2040 would not be growth inducing nor would it be precedent setting in that:
- a. General Plan 2040 carries forward nearly all of the Land Use Map designations from General Plan 2020, and maintains the fundamental form and character of the City;
 - b. General Plan 2040 maintains the residential density ranges from General Plan 2020, but applies a net density metric rather than a gross density metric, thereby aligning the General Plan and Zoning Maps;
 - c. General Plan 2040 makes minimal changes to industrial and commercial sites and protects industrial land, thereby helping San Rafael sustain a vibrant local economy, accommodate businesses, and provide services to residents;
 - d. General Plan 2040 carries forward the emphasis of General Plan 2020 on transit-oriented development and focuses new growth around public transportation and areas that are already urbanized;
 - e. General Plan 2040 includes no instances where a former open space designation has been changed to an urban land use;
 - f. General Plan 2040 provides open space maps and policies to preserve San Rafael’s open space framework and maintains open space as the largest single land use in the Planning Area;
 - g. The circulation system envisioned by General Plan 2040 is based on existing plans and programs, with no proposals for new roadways, interchanges, or similar improvements other than those already under consideration and being evaluated through other plans and planning processes;
 - h. General Plan 2040 is consistent with the regional Sustainable Communities Strategy (SCS), including its identification of “Priority Development Areas.” Further, General Plan 2040 uses population and employment projections that are consistent with Plan Bay Area 2040, the adopted regional plan and SCS for the Bay Area;
 - i. General Plan 2040 is consistent with the Marin Countywide Plan, including its emphasis on “city-centered growth.” Its land use designations for unincorporated areas are compatible with designations in the County Plan;
 - j. General Plan 2040 is consistent with regional air and water quality plans;
 - k. General Plan 2040 is consistent with the regional Congestion Management Plan and the Transportation Authority of Marin’s (TAM) traffic modeling methodology, and includes VMT forecasts that were derived using TAM’s traffic model and network assumptions;
 - l. Preparation of General Plan 2040 was coordinated with service providers, including the San Rafael City School District, the Miller Creek School District, and relevant water, sewer, flood control, solid waste, and energy utilities.

3. Adoption of the goals, policies, and programs in General Plan 2040 would advance the guiding principles for San Rafael’s future expressed by the Plan, including Building on Our Foundation, Adapting to the Future, Economic Vitality, Mobility, Housing our Growing Community, and Opportunity for All, thereby supporting the overarching goal of a thriving city. Moreover, the General Plan would not conflict with the goals, policies, and programs expressed by other City plans and will provide a framework and foundation for future plans that support these principles, in that:
 - a. General Plan 2040 is intended as a new “baseline” against which the consistency of future plans and programs will be evaluated during the next 20 years;
 - b. General Plan 2040 has been reviewed and found to be internally consistent and supportive of other City plans and initiatives;
 - c. General Plan 2040 has been edited and revised since its publication in October 2020 to reflect and respond to community input and comments received during public hearings;
 - d. General Plan 2040 provides clear direction on the preparation of future plans, including a Parks Master Plan, an Arts and Culture Plan, an Equitable Economic Development Strategy, a Sea Level Rise Adaptation Plan, and sub-area plans for the Priority Development Areas at Northgate and in Southeast San Rafael/ Canal;
 - e. A Downtown Precise Plan has been prepared concurrently with General Plan 2040, providing policies and standards supporting new housing, economic vitality, public space improvements, circulation improvements, resiliency improvements, and historic preservation incentives for the heart of the city;
 - f. General Plan 2040 includes an implementation section providing guidance on timing, funding sources, and responsible parties for each program; and
 - g. General Plan 2040 will support City goals related to social equity, diversity, climate change, sustainability, affordable housing, economic vitality, environmental protection, safety, disaster resilience, innovation, cultural enrichment, efficient services, mobility, neighborhood character, and the overall quality of life.

BE IT FURTHER RESOLVED that any documents attached by hyperlink to this resolution will be edited as necessary following adoption to incorporate the finally-approved documents, included related addenda.

BE IT FURTHER RESOLVED that the City Council of the City of San Rafael does hereby adopt General Plan 2040 (Exhibit A).

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 2nd day of August 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:
 NOES: COUNCILMEMBERS:
 ABSENT: COUNCILMEMBERS:

 Lindsay Lara, City Clerk

EXHIBIT A (by hyperlink): [San Rafael General Plan 2040](#)

RESOLUTION NO.

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING THE
DOWNTOWN SAN RAFAEL PRECISE PLAN (DOWNTOWN PRECISE PLAN)**

WHEREAS, California Government Code Section 65300 requires every county and city in California to adopt a General Plan for its long-range development, and further to periodically update that plan to reflect current conditions and issues; and

WHEREAS, the City of San Rafael initiated an update of General Plan 2020 in 2017 in order to move the planning horizon forward to 2040; and

WHEREAS, the General Plan Update provided an opportunity to review, strengthen, and update long-range planning policies and programs, both on a citywide level and for sub-areas within the City; and

WHEREAS, the San Rafael General Plan supports and encourages sub-area planning, including neighborhood plans, precise plans, specific plans, and other plans that focus on particular subareas at a finer level of detail than is appropriate or possible in a General Plan. The General Plan particularly supports such plans in areas expected to grow and change, including Downtown San Rafael (“Downtown”); and

WHEREAS, Downtown has been the focus of much of the City’s planning and development activity over the last 40 years, and was designated a Priority Development Area by the City Council in 2009; and

WHEREAS, California planning law provides for the preparation of “specific plans” under Government Code Section 65450 *et seq.* and further allows for the preparation of “precise plans”, which are broadly defined as being similar to specific plans, but more loosely structured and focused on coordinating public and private improvements in subareas of a city; and

WHEREAS, precise plans have been effectively used throughout California to accommodate infill development, public realm enhancements, circulation improvements, economic development, historic preservation, and revitalization, especially in downtown areas; and

WHEREAS, existing planning guidance for Downtown is provided by a 1993 document called “Our Vision of Downtown San Rafael and Our Implementation Strategy,” (the “1993 Plan”) which does not reflect current trends or conditions in many cases; and

WHEREAS, the 1993 Plan for Downtown was prepared prior to the arrival of SMART Rail service in the city and further does not address contemporary issues such as climate change and sea level rise, the loss of redevelopment dollars, increased homelessness and the urgent need for affordable housing, and changes in retail shopping patterns; and

WHEREAS, the 1993 Plan for Downtown did not cover the commercial area east of US Highway 101, although this area is within the designated Priority Development Area and serves as an important Downtown gateway and employment center; and

WHEREAS, other plans and programs affecting Downtown have been developed since 1993, including the Canalfront Design Plan (2009), the Downtown Station Area Plan (2012), the Downtown Parking and Wayfinding Study (2018), the Third Street Corridor Plan (2019), and various citywide planning documents with specific recommendations for Downtown; and

WHEREAS, the City initiated a process in 2017 to develop “Good Design Guidelines” for Downtown, engaging local architects and designers, since this issue was not fully addressed by the 1993 Plan or subsequent plans; and

WHEREAS, the City has not performed a comprehensive update of historic resources in Downtown San Rafael since 1976-77. While an administrative update of the inventory was provided in 1986, data on historic resources is more than 40 years old in most cases, requiring costly historic resource evaluations for many modernization and development projects; and

WHEREAS, existing development standards in Downtown are not fully aligned and may not provide adequate flexibility, resulting in the need for exceptions and variances in many cases, and additional costs and public hearings. In particular, current density limits make it difficult to achieve allowable building heights in parts of Downtown; and

WHEREAS, more flexible zoning regulations and more design-focused standards would be desirable for Downtown, both to expedite project approvals, respond to State law and regional housing initiatives, and improve design quality; and

WHEREAS, the General Plan Update provided an opportunity for “economies of scale” to prepare a new Downtown Plan concurrently with the General Plan, particularly with respect to community engagement and compliance with the California Environmental Quality Act; and

WHEREAS, the City applied for a \$500,000 grant from the Association of Bay Area Governments/ Metropolitan Transportation Commission (ABAG/MTC) to replace the 1993 Plan with a new “Precise Plan” for Downtown, and was awarded that grant in April 2018; and

WHEREAS, the City provided a 12 percent match to the grant using its General Plan Implementation and Maintenance Fund, thereby providing a viable funding source for the Precise Plan; and

WHEREAS, the City Council approved the issuance of a Request for Proposals (RFP) for services on the General Plan and Downtown Precise Plan, and the City prepared a detailed work program, issued an RFP, interviewed the top-ranked firms and selected the planning firm of Opticos Design to lead the work; and subsequently entered into a Professional Services Agreement with Opticos, which was approved on January 22, 2019; and

WHEREAS, the boundaries of the Precise Plan area were defined collaboratively with the General Plan Steering Committee and set to cover a 265-acre area that extends from the Second/Fourth

intersection on the west to Montecito Shopping Center on the east, and from the Mission Street corridor on the north to First Street, Albert Park, and Mahon Creek on the south; and

WHEREAS, a comprehensive community engagement strategy was initiated for the Downtown Precise Plan, including:

- Five meetings of the General Plan Steering Committee
- Downtown Visioning pop-up workshops in March and April 2019
- A three-day design charrette convened in a Downtown storefront in May 2019
- Brown bag lunch presentations on Downtown topics
- Focus groups with different stakeholder groups on Downtown issues
- An additional pop-up workshop at the Farmers Market in Summer 2019
- Presentations to the Planning Commission and the Citizens Advisory Committee on Economic Development and Affordable Housing
- Presentations to the City Council
- Facilitated website discussion threads on Downtown issues

WHEREAS, a comprehensive inventory of historic resources was conducted for Downtown, including data for 572 properties, a field survey of approximately 160 properties, and preparation of California Department of Parks and Recreation (DPR) 523A and 523B forms for 36 properties; and

WHEREAS, a variety of existing conditions profiles were prepared for Downtown covering economic conditions, demographic and housing conditions, transportation, infrastructure, and urban design, and these profiles were bundled into a Downtown Profile Report, which was published in June 2019; and

WHEREAS, a Draft Downtown Affordable Housing and Anti-Displacement Strategy was prepared in June 2019, identifying measures to incentivize affordable housing production and minimize the displacement of lower income renters; and

WHEREAS, a Downtown Options Report was published in October 2019, including urban design and transportation concepts for community discussion; and

WHEREAS, the City determined that the best way to achieve its objectives of improved design quality and expedited infill development in the Downtown area was to replace traditional zoning districts with new Form-Based Districts. A Form-Based Code was included as Chapter 9 of the Precise Plan; and

WHEREAS, an Administrative Draft Downtown Precise Plan was delivered to the City in May 2020, and discussed by a subcommittee of the General Plan Steering Committee in July and August 2020; and

WHEREAS, revisions to the Administrative Draft were made and a Public Review Draft Downtown Precise Plan was published in December 2020; and

WHEREAS, the Downtown Precise Plan was included in the “project” evaluated by the Program-level Environmental Impact Report (EIR) for San Rafael General Plan 2040, and was covered in a Scoping Session and Notice of Preparation on March 29, 2019; and

WHEREAS, the Draft EIR for the Downtown Precise Plan and San Rafael General Plan was published on January 7, 2021 and circulated for a 61-day review period closing on March 9, 2021; and

WHEREAS, responses to comments on the Draft EIR were provided and a Final EIR was published on May 23, 2021, including these responses as well as edits to the Draft EIR; and

WHEREAS, the Planning Commission convened public hearings on the Draft Downtown Precise Plan on January 12, January 26, and February 9, 2021; and

WHEREAS, comments received at those hearings and comments received through written correspondence were duly considered, and responses to comments were provided, including information on how the Precise Plan would be edited; and

WHEREAS, the Precise Plan provides policies and actions related to land use, transportation, public realm, historic preservation, affordable housing, economic development, and implementation in order to maintain Downtown as an active, thriving district of the City; and

WHEREAS, the Precise Plan includes text and diagrams specifying the location, distribution, intensity, and extent of development; standards and criteria for new development, including standards for historic preservation; and

WHEREAS, the Precise Plan would accommodate up to 2,200 new housing units, and accommodate 2,020 additional jobs based on its land use designations; and

WHEREAS, the Precise Plan provides for new parks, green spaces, public plazas, and streetscape improvements that encourage pedestrian activity and make Downtown a safer, more comfortable place for walking and bicycling; and

WHEREAS, the Precise Plan carries forward the 1993 vision of a Downtown that is “alive after five” with restaurants, entertainment, arts and culture, and housing; and

WHEREAS, the Precise Plan implements General Plan 2040, which identifies Downtown as having significant opportunities for change and revitalization, including transit-oriented, walkable development and mixed uses, and which includes a new “Downtown Mixed Use” Map designation that replaces the six Downtown land use designations on the 2020 General Plan Map; and

WHEREAS, the Precise Plan was edited in Spring 2021 to reflect public comment, and brought before the Planning Commission for consideration on June 29, 2021, and the revisions substantially respond to the comments received; and

WHEREAS, on June 29, 2021, the Planning Commission approved Resolution No. 2021-05 recommending that the San Rafael City Council adopt the Downtown Precise Plan; and

WHEREAS, on June 29, 2021, the Planning Commission approved Resolution No. 2021-07 recommending that the City Council adopt conforming amendments to the Municipal Code and adopt the Downtown Form Based Code as the zoning regulations for Downtown San Rafael; and

WHEREAS, on July 19, 2021, the City Council certified the Final EIR for General Plan 2040 and the Downtown Precise Plan;

NOW THEREFORE BE IT RESOLVED that the City Council hereby finds and determines that the above recitals are true and correct, and together with the Staff Report serve as the evidentiary basis in part for the actions set forth below.

BE IT FURTHER RESOLVED that the City Council finds that:

1. The proposed Downtown Precise Plan is consistent with the goals and policies of San Rafael General Plan 2040 and serves to implement the General Plan.
 - a. The Downtown Precise Plan will sustain and improve Downtown San Rafael as a safe, attractive, convenient, well-maintained place to visit, shop, recreate, work, and live (General Plan 2040 Policy NH-1.1).
 - b. The Downtown Precise Plan supports the General Plan 2040 guiding principle to “Promote a Thriving Downtown,” and also supports principles of economic vitality, opportunity for all, housing our growing community, mobility, and adapting to the future.
 - c. The Downtown Precise Plan is consistent with the General Plan Land Use Map and its designation of the Precise Plan Area as a Downtown Mixed Use District. The heights and intensities of development in the Precise Plan are consistent and compatible with the heights and intensities described in General Plan 2040.
 - d. The Downtown Precise Plan implements Land Use Element policies relating to transit-oriented development, mixed use development, and innovative housing types, and Neighborhoods Element policies relating to Downtown’s economic success, Downtown housing, Downtown employment, preventing displacement, public realm improvements, context-sensitive design, Downtown’s historic resources, Downtown arts, Downtown circulation and parking, and hazard resilience (Policies NH-1.2 through NH-1.12).
 - e. The Downtown Precise Plan uses the buildout projections cited in Table 4-1 of General Plan 2040, including 2,200 housing units and 700,000 square feet of non-residential floor space.
 - f. The design standards and guidelines in the Precise Plan are consistent with the policy direction provided by the Community Design and Preservation Element, including Policy CDP-2.2 (Downtown Urban Design) and other policies calling for enhanced gateways (CDP-2.6), plazas and active public spaces (CDP-3.1), street furnishings (CDP-3.2), landscaping (CDP-3.3, 3.4, and 4.10), street trees (CDP-3.5), wayfinding (CDP-3.7), design guidelines (CDP-4.1), creative architecture (CDP-4.3), high-density design (CDP-4.5), larger-scale buildings (CDP-4.7), and scale transitions (CDP-4.8).
 - g. The Downtown Precise Plan supports General Plan historic preservation policies, including an updated inventory of historic resources, recommendations for new historic districts and landmarks, preservation incentives, support for adaptive reuse of older buildings and the maintenance of historic properties, and development standards to protect the integrity of historic properties.
 - h. The Downtown Precise Plan supports conservation and climate change goals by concentrating future development on urbanized land in a pattern that reduces dependence on fossil fuel vehicles and facilitates walking, cycling, and transit use, and by encouraging restoration of Mahon and Irwin Creeks.

- i. The Downtown Precise Plan supports safety and resilience goals by including provisions for sea level rise and adaptation, especially along the San Rafael Canal.
 - j. The Downtown Precise Plan supports mobility goals by accommodating development in a way that will reduce vehicle miles traveled, and by promoting safety and “complete street” improvements on Downtown streets, and managing parking more efficiently.
 - k. The Downtown Precise Plan is aligned with General Plan 2040 goals and policies addressing arts and culture, economic vitality, and equity, diversity, and inclusion.
 - l. The Downtown Precise Plan includes incentives for affordable housing production, and measures to reduce the displacement of lower income households, and includes housing opportunities to help the City meet its regional housing needs allocation for 2023-2031.
2. The proposed Downtown Precise Plan would support the public interest, health, safety, convenience, and welfare of the community, because:
 - a. The Plan facilitates the production of housing, including affordable housing. The elimination of FAR and density standards will remove a potential obstacle and encourage higher density housing serving a variety of income groups.
 - b. The Plan establishes objective design standards for Downtown, with provisions that support higher quality design and architecture and improved private and public space.
 - c. The Plan improves traffic safety and includes improvements that would reduce collisions and injuries, especially for pedestrians and bicyclists.
 - d. The Plan encourages retail and local business uses, while also providing the flexibility to respond to changes in the retail sector, and recent trends facilitating remote work.
 - e. The Plan includes height bonus provisions for projects that include community benefits such as childcare, community meeting space, and publicly-accessible parking.
 - f. The Plan includes provisions for new public spaces and plazas, including improvements to the gateway area around the Downtown SMART station and transit center.
 - g. The Plan encourages the protection of San Rafael’s historic resources and greater awareness and appreciation of the city’s heritage.
 - h. The Plan envisions occasional closure of Fourth Street and long-term improvements to Fourth Street as a civic space that serves multiple purposes, in addition to carrying vehicle traffic.
 - i. The Plan strives to make Downtown a place where everyone feels welcome, and that is accessible to all residents of San Rafael.
 3. The proposed plan promotes development of desirable character, harmonious with existing and proposed development in the surrounding area.
 - a. The Plan recognizes that Downtown is a unique part of San Rafael that requires special standards, guidelines, and policy direction. The Plan includes a Form-Based Code that has been specifically tailored to Downtown.
 - b. The Plan recognizes that Downtown provides unique development opportunities since it is the heart of the City, its most densely developed area, is well served by transit, includes a mix of historic and contemporary buildings, and has a number of underdeveloped and vacant sites with the capacity to accommodate housing and employment uses.
 - c. The Plan facilitates the coordination of physical improvements across multiple parcels and encourages lot consolidation to create more viable opportunity sites.

- d. The Plan includes upper story setbacks to reduce shading and building mass, add visual interest, and maintain a pedestrian scale at the street level.
- e. The area covered by the Precise Plan was selected to correspond to higher-density residential and commercial properties and largely excludes low and moderate density residential neighborhoods. In the few instances where such neighborhoods are included within the boundary, the existing residential zoning is being retained.
- f. The height limits and height bonuses established by the Precise Plan have been set to reduce the potential for conflicts with lower density areas and step down along the perimeter.
- g. The Plan includes provisions for parking and traffic management that reduce impacts on adjacent lower density neighborhoods.
- h. The Plan includes a comprehensive inventory of Downtown’s historic properties and identifies those eligible as individual and contributing resources. This information will help protect the City’s heritage and ensure that new development is sensitive to historic context.

BE IT FURTHER RESOLVED that any documents attached by hyperlink to this resolution will be edited as necessary following adoption to incorporate the finally-approved documents, included related addenda.

BE IT FURTHER RESOLVED that the San Rafael City Council adopts the Downtown Precise Plan (Exhibit A).

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 2nd day of August 2021 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

EXHIBIT A (by hyperlink): Downtown Precise Plan (Part One and Part Two)

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL AMENDING TITLE 14 (ZONING ORDINANCE) AND AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO:

- A) REPEAL THE EXISTING DOWNTOWN ZONING DISTRICTS, AND REPLACE WITH DOWNTOWN MIXED-USE (DMU) DISTRICT;**
- B) AMEND, DELETE AND REPLACE CERTAIN ZONING PROVISIONS APPLICABLE TO DOWNTOWN SAN RAFAEL; AND**
- C) AMEND, DELETE AND REPLACE OTHER ZONING REGULATIONS TO COMPLY WITH STATE LAW AND INCORPORATE OTHER MINOR CHANGES, CORRECTIONS AND UPDATES**

(CASE NOS. ZO21-003 AND ZC21-002)

WHEREAS, in 2004, the City adopted the San Rafael General Plan 2020 with a horizon year of 2020. In 2018, the City initiated a General Plan Update (General Plan 2040) to move the Plan’s horizon forward 20 years to 2040; and

WHEREAS, in late 2018, the City received a One Bay Area Grant to fund the preparation of a focused Plan for Downtown San Rafael, the Downtown San Rafael Precise Plan (Downtown Precise Plan), under the umbrella of the San Rafael General Plan 2040. The Downtown Precise Plan was budgeted and scoped to include a “form-based code” to establish new zoning regulations for the Downtown Precise Plan area that would replace the existing property zoning and many of the existing zoning code regulations (SRMC Title 14, Zoning) that are applicable to the Downtown area; and

WHEREAS, in Fall 2020, the City completed and released the Draft General Plan 2040 and the Downtown Precise Plan for public review. The Downtown Precise Plan includes Chapter 9 – Downtown Form-Based Code (form-based code); and

WHEREAS, City staff has drafted amendments to San Rafael Municipal Code (SRMC) Title 14- Zoning (Zoning Ordinance) and Zoning Map to acknowledge and support the Downtown Precise Plan form-based code through: a) recommending a repeal of the existing Downtown zoning districts (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, and 5/M R/O) and replacing these districts with a newly established Downtown Mixed-Use (DMU) District; b) amending, deleting and replacing certain zoning provisions applicable to Downtown San Rafael; and c) introducing new provisions to address and reference the Downtown Precise Plan form-based code that would be adopted by separate ordinance. These proposed amendments are presented in attached Exhibits A and B; and

WHEREAS, the proposed amendments to SRMC Title 14 – Zoning and Zoning Map set forth in Exhibits A and B, together with the Downtown Precise Plan form-based code, establish the State-require zoning legislation for Downtown San Rafael within the boundaries of the proposed DMU District; and

WHEREAS, in addition to the proposed amendments applicable to Downtown San Rafael, City staff has drafted miscellaneous amendments to the SRMC Title 14 - Zoning to propose minor changes in use and permit provisions specific to, among others, permitting provisions for cannabis manufacturing use and large family day care homes that were initiated by changes in state laws. These proposed amendments are presented in attached Exhibit C. These miscellaneous amendments coupled with the draft amendments

addressing the Downtown Precise Plan are collectively presented under one ordinance action proposed herein; and

WHEREAS, per the provisions of the California Environmental Quality Act (CEQA), the proposed amendments to SRMC Title 14 – Zoning presented in attached Exhibits A and B are subject to environmental review. The San Rafael General Plan 2040 and Downtown Precise Plan Final Environmental Impact Report (FEIR) has been completed, which assesses the environmental impacts of the Downtown Precise Plan including the proposed amendments to SRMC Title 14 – Zoning (collectively, the “project”). The FEIR has been certified by separate resolution of the City Council; and

WHEREAS, in considering action to adopt the General Plan 2040, the Downtown Precise Plan and proposed amendments to SRMC Title 14 – Zoning presented in Exhibits A and B, the City has reviewed the certified FEIR and all applicable mitigation measures therein. The certified FEIR has concluded that the project will result in significant and unavoidable impacts associated with Air Quality, Cultural Resources, Greenhouse Gas Emissions, and Transportation. The City has weighed the proposed project benefits against the significant, unavoidable adverse environmental effects. By separate resolution and consistent with the CEQA Guidelines Section 15063, the City has approved the CEQA Statement of Findings of Fact and Statement of Overriding Considerations supporting and substantiating adoption of the General Plan 2040, the Downtown Precise Plan, and the related amendments to SRMC Title 14 – Zoning presented in Exhibits A and B. This separate resolution also recommends the approval of a Mitigation Monitoring and Reporting Program (MMRP) to ensure that the required FEIR mitigation measures are incorporated into the project action; and

WHEREAS, the accompanying miscellaneous amendments to certain permit provisions in SRMC Title 14 – Zoning presented in attached Exhibit C have been assessed for compliance with CEQA. As drafted, the amendments do not propose any changes to City policies or regulations that would result in a direct or indirect physical, environmental impact; therefore it has been determined that this ordinance amendment is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment pursuant to CEQA Guidelines Section 15061(b)(3), and is not subject to environmental review; and

WHEREAS, on June 29, 2021, the Planning Commission held a duly noticed public hearing on the proposed amendments to the SRMC Title 14 and the Zoning Map, Exhibits A through C, accepting all public testimony and the written report of the Community Development Department. On a 4-0 vote, the Planning Commission adopted Resolution No. 2021-06 recommending City Council approval of this Draft Ordinance; and

WHEREAS, on August 2, 2021, by action of separate resolution, the City Council adopted the San Rafael General Plan 2040 and the Downtown Precise Plan; and

WHEREAS, on August 2, 2021, the City Council held a duly noticed public hearing through a public notice published the Marin Independent Journal. The Council considered the proposed amendments to San Rafael Municipal Code (SRMC) Title 11- (Public Works), Title 14- Zoning (Zoning Ordinance) and Zoning Maps as outlined in Exhibits A through C, accepting all public testimony and the written report of the Community Development Department; and

WHEREAS, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 for adoption of the amendments to San Rafael Municipal Code (SRMC) Title 11- (Public Works), Title 14- Zoning (Zoning Ordinance) and Zoning Maps as outlined in attached Exhibits A to C:

1. The amendments to San Rafael Municipal Code Title 14 – Zoning Ordinance and Zoning Map, together with the Downtown Precise Plan Chapter 9 – Downtown Form-Based Code adopted by separate ordinance, are consistent with the policies and programs of the adopted San Rafael General Plan 2040 and Downtown Precise Plan in that:
 - a. The amendments create zoning consistency with the General Plan 2040. First, the amendments would establish the Downtown Mixed-Use (DMU) District, which would be consistent with the Downtown Mixed-Use land use category in the Land Use Element. The establishment of the DMU District is critical and necessary as it is the foundation for the Downtown Precise Plan form-based code, which will serve as the zoning code for Downtown. Second, as drafted, the Downtown Precise Plan form-based code is consistent with the Downtown Mixed-Use land use category, which: 1) calls for allowing a mix of land uses at higher development intensities within the City; and 2) departs from the traditional residential density limits through use of building height limits and prescribed building form standards, and transitions development allowances along the edges of Downtown. Lastly, the amendments would implement Land Use Element Program LU-2.1A, which recommends amending the zoning ordinance and zoning map to incorporate the policies and programs of the General Plan 2040, thus resulting in consistency between the General Plan and zoning.
 - b. The proposed amendments would be consistent with the Land Use Element, specifically Goal LU-1, Policy LU-1.10, Policy LU-1.17, Policy LU-1.18, Policy LU-2.2, and Program LU-2.2B in that they: 1) support and respond to the Downtown Precise Plan which set forth well-managed changes and growth for Downtown; 2) defer to the Downtown Precise Plan for development intensity limit; 3) acknowledge and codify the building height and height bonus regulations and provisions presented in the Downtown Precise Plan; and 4) support and codify planned mixed-use development in Downtown. Further, the proposed amendments would be consistent with Policy LU-3.1 (Area Plans), which reinforces the preparation and adoption of community-based Area Plans (e.g., the Downtown Precise Plan) to direct planning and future growth for a specific area.
 - c. The proposed amendments would be consistent with the Neighborhood Element, specifically Policy NH-1.1, Program NH-1.1A, Policy NH-1.3, Policy NH-1.7, Program NH-1.7A, Policy NH-1.8 and Program NH-1.8A in that they would: 1) implement the Downtown Precise Plan and incorporate the Downtown Precise Plan form-based code to guide development and investment; 2) establish the zoning tool to support and guide the development of mixed-use and needed housing in Downtown; 3) ensure that new construction and development is sensitive to Downtown’s context; and 4) provide measures to ensure the protection, preservation and enhancement of Downtown’s historic resources.
 - d. Together with the Downtown Precise Plan Chapter 9 - Form-Based Code the proposed amendments would be consistent with the Community Design policies and programs of the Community Design and Preservation Element, specifically Program CDP-1.5C, Program CDP-2.1A, CDP-2.2A, Policy CDP-3.1, Program CDP-4.1C, Program CDP-4.2A, and Program CDP-4.8A in that they would: a) create a Downtown height profile; b) codify design standards for the “place types” identified in the Downtown Precise Plan; c) adopt a zoning tool that implements the design recommendations of the Downtown Precise Plan; d) encourage the design and development of plazas and active public spaces; e) provide design guidelines and standards through the adoption of a form-based code; and f) introduce building step-backs as a tool for implementing scale transitions in new development.
 - e. Together with the Downtown Precise Plan, the proposed amendments would be consistent with the Historic Resources policies and programs of the Community Design and Preservation Element, specifically, Policy CDP-5.2, Policy CDP-5.4, in that they would: a) include the adoption of an updated historic resources inventory for Downtown; and b) incorporate incentives for encouraging preservation and stewardship of the Downtown historic resources.
 - f. The proposed amendments would create consistency between the SRMC Title 14 zoning provisions and regulations with the Downtown Precise Plan form-based code, which is adopted by separate ordinance and incorporated herein by reference.

- g. The proposed amendments would establish a new DMU District to blanket the Downtown Precise Plan area. The DMU District will provide a base zoning and foundation for the Downtown Precise Plan area and form-based code and the other accompanying amendments.
 - h. The amendments are necessary to codify the Downtown Precise Plan and form-based code as the zoning code for Downtown San Rafael.
 - i. The proposed miscellaneous amendments to SRMC Title 14 – Zoning would update the code to address current trends and laws through: 1) modifying the cannabis manufacturing use regulations and provisions to align with the current State laws; 2) eliminating the City’s large family day care home permitting and provisions which are no longer applicable to enforce; and 3) establishing consistent sunset dates for all permits and entitlements regulated under Title 14 – Zoning.
2. The public health, safety and general welfare are served by the adoption of the proposed amendments to SRMC Title 14 – Zoning Ordinance in that they would acknowledge and adopt by reference the Downtown Precise Plan form-based code, which is adopted by separate ordinance. Collectively, the proposed amendments together with the Downtown Precise Plan Chapter 9- Downtown Form-Based Code would present well-managed changes and growth for Downtown that would:
- a. Establish standards and regulations on building height and bulk to promote a more urban scale for growth of commerce and housing, while protecting the character and scale of the contiguous neighborhoods and surrounding community.
 - b. Establish standards and regulations that would protect San Rafael’s historic resources.
 - c. Establish standards and regulations to promote safe and efficient multi-modal travel.
 - d. Establish standards and regulations that would promote orderly growth and facilitate the development of needed housing in Downtown San Rafael.
 - e. Establish consistency with the General Plan 2040 and the policies of the Downtown Precise Plan.
 - f. Revise and update miscellaneous permit provisions in the Zoning Ordinance to address changes in the state law and to provide internal consistency in permit expiration dates.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the findings of Planning Commission Resolution No. 2021-06, adopted June 29, 2021 recommending to the City Council adoption of this Ordinance, are true and correct.

DIVISION 2. Approval

The City Council of the City of San Rafael hereby approves and adopts the amendments to SRMC Title 14- Zoning (Zoning Ordinance) and Zoning Maps as presented in Exhibits A through C, attached hereto and incorporated herein by reference.

DIVISION 3. Publication

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the

names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, Marin County, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk a certified copy of the full text of this Ordinance, along with the names of those Councilmembers voting for or against the Ordinance.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, August 2, 2021 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSTAIN: Councilmembers:

ABSENT: Councilmembers:

And will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 16th day of August 2021.

LINDSAY LARA, City Clerk

Exhibits:

- A. Amendments to San Rafael Municipal Code Title 14 Zoning Ordinance
- B. Amendments to San Rafael Municipal Code Title 14 Zoning Map
- C. Amendments to San Rafael Municipal Code Title 14 Zoning Ordinance (Cannabis Manufacturing Use, Large Family Day Care Homes, and Miscellaneous Amendments)

EXHIBIT A
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE
TO INCORPORATE & REFERENCE THE
DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE
July 2021

The following are amendments to the SRMC Title 14 (Zoning) to address and incorporate by reference the Downtown San Rafael Precise Plan and Form-Based Code, adopted by separate ordinance:

Section 1. Amendments to Chapter 14.01 – TITLE, COMPONENTS AND PURPOSES

Section 1.1. Amend Section 14.01.020 – Components to amend subsection A to add new A.3 and to amend subsection B, to read as follows:

- A. The zoning ordinance shall consist of the following components:
 - 1. A map, or set of maps, known as the zoning map, delineating the boundaries of zoning districts within the City of San Rafael.
 - 2. Regulations, known as zoning regulations, governing the use of land, and placement of buildings and improvements within the various classes of districts. Such regulations shall include, but not be limited to, property development standards for each district, parking standards, performance standards, and procedural rules for administering the ordinance.
 - 3. The Downtown San Rafael Precise Plan, Form-Based Code and Downtown zoning map adopted by separate ordinance and incorporated herein by reference. The Downtown San Rafael Precise Plan and Form-Based Code include certain zoning regulations, governing the land use and placement of building and improvements for those properties within the boundaries of the downtown area, defined by the Downtown Mixed Use district. Where the Downtown San Rafael Form-Based Code is silent on regulations and provisions, the regulations and provisions presented in this title 14 shall apply.
- B. A copy of the zoning regulations and the zoning map, Downtown San Rafael Precise Plan Form-Based code and Downtown zoning map, together with a record of all amendments, shall be kept on file with the city clerk and shall constitute the original record. A copy of the zoning regulations and zoning map currently in effect shall also be kept on file in the Community Development Department and Office of the City Clerk.

Section 1.2. Amend the Zoning Map to replace the Downtown zoning districts (4SRC, CSMU, HO, 2/3 MUE, 2/3 MUW, WEV, and 5/M-R/O) with the Downtown Mixed Use (DMU) District, which covers the boundaries of the Downtown San Rafael Precise Plan area.

See Zoning Map change in Exhibit B, incorporated herein by reference.

EXHIBIT A
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE
TO INCORPORATE & REFERENCE THE
DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE
July 2021

Section 2. Amendments to Chapter 14.02 – ORGANIZATION, APPLICABILITY AND INTERPRETATION

Section 2.1. Amend Section 14.02.030 – Applicability of land use and development regulations to read as follows:

Base District Designator	Base District Name	Chapter
R2a	Single-family Residential District Minimum lot size: 2 acres	14.04
R1a	Single-family Residential District Minimum lot size: 1 acre	14.04
R20	Single-family Residential District Minimum lot size: 20,000 sq. ft.	14.04
R10	Single-family Residential District Minimum lot size: 10,000 sq. ft.	14.04
R7.5	Single-family Residential District Minimum lot size: 7,500 sq. ft.	14.04
R5	Single-family Residential District Minimum lot size: 5,000 sq. ft.	14.04
DR	Duplex Residential District 2,500 sq. ft. per dwelling unit	14.04
MR5	Multifamily Residential District (Medium Density) 5,000 sq. ft. per dwelling unit	14.04
MR3	Multifamily Residential District (Medium Density) 3,000 sq. ft. per dwelling unit	14.04
MR2.5	Multifamily Residential District (Medium Density) 2,500 sq. ft. per dwelling unit	14.04

EXHIBIT A
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE
TO INCORPORATE & REFERENCE THE
DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE
July 2021

Base District Designator	Base District Name	Chapter
MR2	Multifamily Residential District (Medium Density) 2,000 sq. ft. per dwelling unit	14.04
HR1.8	Multifamily Residential District (High Density) 1,800 sq. ft. per dwelling unit	14.04
HR1.5	Multifamily Residential District (High Density) 1,500 sq. ft. per dwelling unit	14.04
HR1	Multifamily Residential District (High Density) 1,000 sq. ft. per dwelling unit	14.04
GC	General Commercial District	14.04
NC	Neighborhood Commercial District 1,800 sq. ft. per dwelling unit	14.04
O	Office District	14.05
C/O	Commercial/Office District 1,000 sq. ft. per dwelling unit	14.05
R/O	Residential/Office District 1,000 sq. ft. per dwelling unit	14.05
FBWC	Francisco Boulevard West Commercial District	14.05
DMU	Downtown Mixed Use District. See Downtown San Rafael Precise Plan Form-Based Code and Downtown Zoning map adopted by separate ordinance.	14.05
I	Industrial District	14.06
LI/O	Light Industrial/Office District	14.06

EXHIBIT A
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE
TO INCORPORATE & REFERENCE THE
DOWNTOWN SAN RAFAEL PRECISE PLAN & FORM-BASED CODE
July 2021

Base District Designator	Base District Name	Chapter
CCI/O	Core Canal Industrial/Office District	14.06
LMU	Lindaro Mixed Use District	14.06
PD	Planned Development District	14.07
M	Marine District	14.08
P/QP	Public/Quasi-Public District	14.09
P/OS	Parks/Open Space District	14.10
W	Water District	14.11

Section 3. Amendments to Chapter 14.03 - DEFINITIONS

Section 3.1. Amend Section 14.03.030 – Definitions as shown below:

AMEND the definition of Downtown and the associated map to read as follows:

"Downtown" encompasses those properties and parcels within the boundaries of the Downtown Mixed Use (DMU) district. The Downtown Mixed Use district encompasses the geographic area presented on the following map:

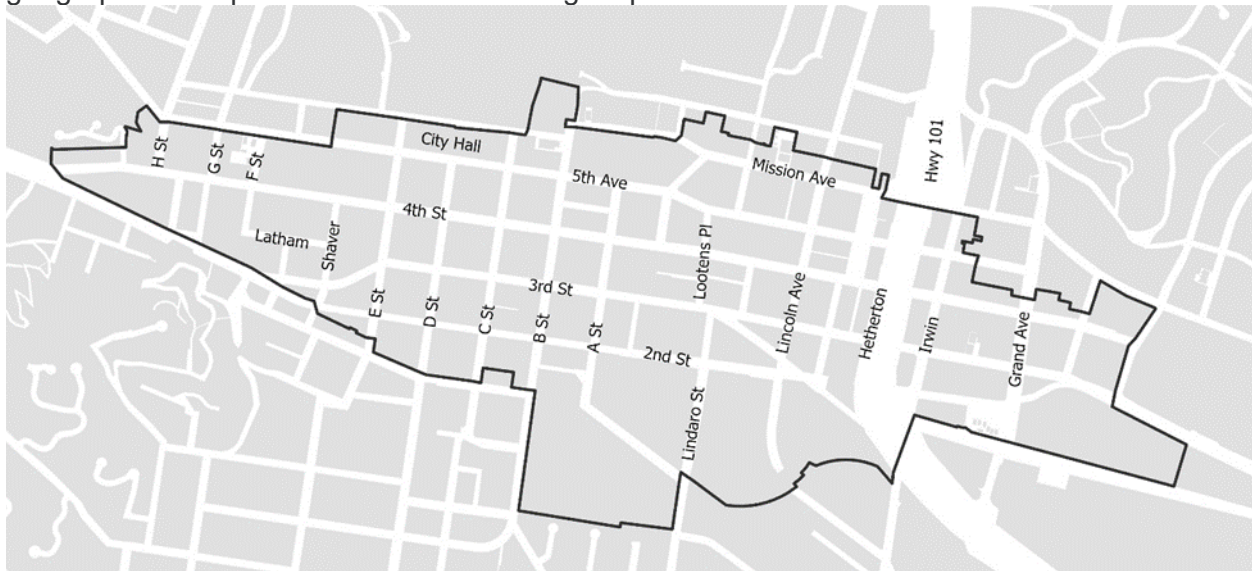


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AMEND the definition of Downtown parking and DELETE the associated map as follows:

"Downtown parking district" means the area which encompasses the boundary generally between Hetherton and E Streets, and Second Street and Fifth Avenue, as shown on map contain in the Downtown San Rafael Precise Plan adopted by separate ordinance.

DELETE definition of "Downtown's West End and environs" and DELETE associated Diagram B

DELETE definition of "Downtown Zoning District" and DELETE associated map

ADD the following new definition:

"Height, downtown mixed use district" means the height of all structures, fences and walls located within the Downtown Mixed Use district measured in accordance with the methodology presented in the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance.

Section 4. Amendments to Chapter 14.04 – RESIDENTIAL DISTRICTS (R, DR, MR, HR)

Section 4.1. Amend Section 14.04.040 – Property development standards (DR, MR, HR), Table 14.04.040 to amend footnote J to read as follows:

(J) The height limit in the Latham Street neighborhood is specified in the Downtown San Rafael Precise Plan Form-Based Code adopted by separate ordinance.

Section 5. Amendments to Chapter 14.05 – COMMERCIAL AND OFFICE DISTRICTS

Section 5.1. Amend Section 14.05.010 Specific purposes – Commercial and Office Districts by deleting subsections P, Q, R, S, T and U and amend subsection L to read as follows:

L. Downtown Mixed Use (DMU) District. The Downtown Mixed Use district encompasses the 265-acre downtown area, which is the commerce and employment center of the city. Allowable uses, design intent, and development standards and regulations are defined and specified in the Downtown San Rafael Precise Plan and form-base code which is adopted by separate ordinance and incorporated herein by reference.

Section 5.2. Repeal Section 14.05.022 – Land Use Regulations (4SRC, CSM, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M, R/O) and Table 14.05.022 and replace existing district regulations with new Section 14.05.022 regarding Downtown Mixed Use (DMU) District land use to read as follows:

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14.05.022 - Land use regulations (DMU).

All land use regulations applicable to the DMU District are contained within the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

Section 5.3. Repeal Section 14.05.032 – Property development standards (4SRC, CSM, HO, 2/3 MUE, 2/3 MUW, WEV, 5/M, R/O) and replace existing district standards with new Section 14.05.032 regarding Downtown Mixed Use (DMU) District development standards as follows:

14.05.032 – Property development standards (DMU).

All property development standards applicable to the DMU District are contained within the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

Section 6. Amendments to Chapter 14.16 – SITE AND USE REGULATIONS

Section 6.1. Amend Section 14.16.040 – Buildings over three stories to read:

14.16.040 - Buildings over three stories.

Existing buildings with more than three (3) stories in height located outside the Downtown Mixed Use (DMU) district, which were constructed or approved as of January 1, 1987 shall be considered conforming. These buildings include, but are not limited to, the following:

Table [14.16.040](#)
BUILDINGS OVER THREE (3) STORIES

Address	Building
4000 Civic Center Dr.	Marin Executive Center
4040 Civic Center Dr.	Northgate East
100—500 Deer Valley	Smith Ranch Hills Retirement Home
535—565 Jacoby	Marin Resource Recovery Center
100 McInnis Parkway	Embassy Suites Hotel

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Address	Building
99 Monticello Road	Kaiser Medical Center
899 Northgate	Quail Hill Office Building
1000 Northgate	Macy's
1010 Northgate	Four Points Sheraton Hotel
1050 Northgate	Holiday Office Building
9000 Northgate	Sears
1 Thorndale	Villa Marin Retirement Residences

Section 6.2. Amend Section 14.16.140 – Fences and walls to read:

4.16.140 - Fences and walls.

This section establishes regulations for the height, location and materials of fences, retaining walls and privacy walls. The regulations are intended to prevent fences or walls which are a detriment to the appearance and character of the community and to protect the public health, safety and welfare by assuring adequate sight distance is provided and maintained at street intersections and driveways. The provisions of this section do not apply to properties within the Downtown Mixed Use district. For fence and wall regulations within the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

Section 6.3. Amend Section 14.16.150 – Floor area ratios and densities applicable to non-residential and mixed-use development to amend subsection A.2 to read as follows:

2. FAR limits in non-residential zoning districts are provided in the General Plan Land Use Element, except that for the Downtown Mixed Use (DMU) district, intensity and development limitations are governed by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The maximum allowable FAR is not guaranteed and shall be determined by the following factors: site constraints, infrastructure capacity, hazardous conditions and design policies.

Section 6.4. Amend Section 14.16.150 subsection G – Floor area ratio limit standards and delete maps as follows:

G. Floor Area Ratio Limit Standards.

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1. For properties within the Downtown Mixed Use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.
 - a. FARs may be transferred from one portion to another of a parcel split by FAR designations if the transfer results in a scale compatible with surrounding development, as permitted in [Section 14.16.340](#), Transfer of density on-site.
 - b. A one-time increase in FAR up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, shall be allowed for expansion of commercial and office structures if consistent with the provisions of this title, consistent with the provisions of [Chapter 14.22](#), Use Permits. A traffic study may be required for a FAR increase for buildings on Fifth or Mission Avenues.

2. A higher FAR may be permitted at the intersection of Andersen Drive, Highway 101 and Francisco Blvd. West, if the proposed development would substantially upgrade the area and include bulk and region-serving specialty retail and/or hotel uses, subject to a use permit ([Chapter 14.22](#)).

3. Mini-storage projects may be permitted up to 1.0 FAR by use permit if the planning commission finds:
 - a. The facility is needed in the community;
 - b. The design of the project is compatible with surrounding uses;
 - c. The project is designed so that it cannot be converted to other, more intensive uses; and
 - d. The location is appropriate for this type of use.

Section 6.5. Amend Section 14.16.190 – Height bonus to read as follows:

14.16.190 - Height bonus.

A. Downtown Mixed Use District Height Bonuses. In the Downtown Mixed Use district an applicant may request a height bonus as set forth below, instead of a request for a density bonus allowed by Section 14.16.030 and by City Council resolution establishing density bonus regulations (resolution 14891). A height bonus requested under this section shall be granted by the planning commission through an environmental and design review in the following downtown zoning districts. No more than one height bonus may be granted for a project and these height bonuses shall not be in addition to waivers/concessions allowed by the city's density bonus regulations and policies. A height bonus specified by the Downtown San Rafael Precise Plan Form-Based Code shall be allowed for any of the following:

1. Affordable housing projects where all units are located on-site. The allowable height bonus shall be as follows:
 - a. Housing projects that restrict 10% of units to low income households are allowed a 10-foot height bonus for all areas in the Downtown Precise Plan;

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b. Housing projects that restrict more than 10% of units to low income households are allowed a 20-foot height bonus in those areas identified as "Tier 2" areas in Figure 4.8 of the Downtown Precise Plan.

2. Public courtyards, plazas and/or passageways that exceed the minimum requirements in the Downtown Form-Based Code, with the recommendation of the design review board that the public improvements are consistent with Downtown San Rafael Precise Plan Form-Based Code

3. Public parking, providing it is not facing Fourth Street and it is consistent with the Downtown San Rafael Precise Plan Form-Based Code.

4. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.

5. Public passageways in the West End area, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe

B. Lincoln Avenue Height Bonus. A twelve-foot (12') height bonus may be granted for affordable housing on Lincoln Avenue outside of the Downtown Mixed Use zoning district, between Mission Avenue and Hammondale Ct., on lots greater than one hundred fifty (150') in width and twenty thousand (20,000) square feet in size, consistent with Section 14.16.030 (Affordable housing).

C. Marin Square Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing at the Marin Square and Gary Place properties, consistent with Section 14.16.030 (Affordable housing).

D. North San Rafael Town Center Height Bonus. A twenty-four-foot (24') height bonus may be granted for affordable housing in the North San Rafael Town Center, consistent with Section 14.16.030 (Affordable housing).

E. Hotel Height Bonus. A height bonus of twelve feet (12') may be granted for a hotel provided the planning commission finds that the hotel will be a significant community benefit and the design is consistent with design review board recommendations.

F. Residential Development Height Bonus. A residential development project with 100% of the total units available to lower income households, and located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, shall be eligible for a height increase of up to 33 feet. This bonus shall not be combined with any other height bonus listed above.

Section 6.6. Amend Section 14.16.243 – Mechanical equipment screening to read as follows:

14.16.243 - Mechanical equipment screening.

Equipment placed on the rooftop of a building or in an exterior yard area shall be adequately screened from public view. See [Chapter 14.16](#) for exclusions to maximum height

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requirements and [Chapter 14.25](#) for design review requirements. For mechanical equipment screening requirements and standards applicable to properties within the Downtown Mixed Use (DMU) district, refer to the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

Section 6.7. Amend Section 14.16.260 – Noise standards, subsection C, Development Adjacent to Commercial, Mixed-Use and Industrial Districts to read as follows:

C. Development Adjacent to Commercial, Downtown Mixed Use, Mixed Use and Industrial Districts. New nonresidential development shall not increase noise levels in a commercial area by more than five (5) dBA (Ldn), or create noise impacts which would increase noise levels to more than sixty-five (65) dBA (Ldn) for office, retail or mixed use districts, or seventy (70) dBA (Ldn) for industrial districts, at the property line of the noise receiving use, whichever is the more restrictive standard. This standard may be waived by the planning director if, as determined by a noise analysis, there are mitigating circumstances (such as higher existing noise levels), and no uses would be adversely affected.

Section 6.8. Amend Section 14.16.295 – Sight distance to read as follows:

14.16.295 - Sight distance.

A. Fencing, vegetation and improvements shall be established and maintained only in a manner that does not reduce visibility for the safe ingress and egress of vehicles or pedestrians within a required vision triangle, e.g., fifteen feet (15') from the curb return at any intersection or driveway, or as determined by the director of public works. In general, fencing and improvements or vegetation located within the established vision triangle (as determined below) shall not exceed a height of three feet (3') as measured above the adjacent street pavement. The vision triangle shall be kept free of any visual obstruction between a height of three feet (3') to eight feet (8') above the street grade elevation.

The typical vision triangle area shall be determined as follows:

Illustration [14.16.295](#)

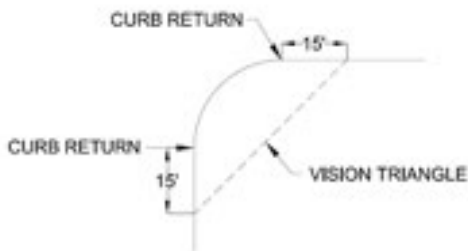


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B. For locations that have obstructions due to unique site constraints or topography, the vision triangle shall be determined by the director of public works.

C. The provisions of this section are not applicable to properties within the Downtown Mixed Use (DMU) district. For sight distance provisions and standards in the Downtown Mixed Use district, see the Downtown San Rafael Precise Plan Form-Based Code which is adopted by separate ordinance and incorporated herein by reference.

Section 7. Amendments to Chapter 14.17 – PERFORMANCE STANDARDS

Section 7.1. Repeal Section 14.17.050 – Offices and financial institutions in the Fourth Street Retail Core and the West End Village.

Section 7.2. Amend Section 14.17.100 – Residential uses in commercial districts to read as follows:

14.17.100 – Residential uses in commercial districts.

A. Purpose. The purpose of this section is to ensure that residential uses in commercial districts are not adversely impacted by adjacent uses. Residential uses are encouraged in commercial zoning districts, including the Downtown Mixed Use (DMU) district, and in mixed-use development to meet local housing needs and because of the environment they create. However, potential traffic noise and safety impacts related to commercial uses may impact nearby residential uses. The proximity of residential and commercial uses require that special regulations be imposed in the interest of businesses and the residents of the housing units.

B. Applicability. Performance standards for residential uses in commercial districts shall be applied through an administrative use permit in the GC, FBWC, C/O, M and NC districts.

C. Standards.

1. Location. Location of residential units in the GC, FBWC, HO, C/O, M and NC districts shall be determined through project review.

2. Access. Residential units shall have a separate and secured entrance and exit.

3. Parking. Residential parking shall comply with [Chapter 14.18](#), Parking Standards, of this title.

4. Noise. Residential units shall meet the residential noise standards in [Section 14.16.260](#), Noise standards, of this title.

5. Lighting. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of lighting shall be to the satisfaction of the police department.

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The minimum of one foot-candle at ground level shall be provided in all exterior doorways and vehicle parking areas.

6. Refuse Storage and Location. An adequate refuse storage area shall be provided for the residential use.

7. Location of new residential units shall consider existing surrounding uses in order to minimize impacts from existing uses.

8. Boarding House. A boarding house shall comply with the following requirements:

- a. Provision of a management plan to ensure twenty-four (24) hour on-site management, security and any necessary social services;
- b. Provision of usable outdoor area consistent with the requirements of the district in which it is located.

9. Live/Work Quarters. The purpose of live/work quarters is to allow residential use in a commercial district with the intent of permitting people to live in a work environment. Live/work quarters are subject to the following requirements:

- a. Residents of live/work quarters are required to acknowledge, as part of their lease agreement, the commercial nature of the surrounding area.
- b. The FAR standards for the district shall establish the permitted intensity.
- c. The parking requirement shall be based on the number of spaces required for the nonresidential square footage, or as determined by parking study.
- d. All living areas must be suitable for residential purposes, as determined by the building inspector.
- e. At least one of the residents of a live/work quarters shall be required to have a city business license.
- f. The site is free of hazardous materials, as determined by the fire department.

Section 8. Amendments to Chapter 14.18 – PARKING STANDARDS

Section 8.1. Amend Section 14.18.010 – Specific purposes, deleting subsection I and amending subsection H to read as follows:

H. Acknowledge the unique conditions in the Downtown Mixed Use district, where there are a variety of land uses and parking facilities, including a Downtown parking district.

Section 8.2. Amend Section 14.18.020 – Applicability to add new subsection D to read as follows:

D. The provisions of this chapter are applicable to properties with the Downtown Mixed Use district except for provisions specific to: 1) parking requirements; 2) the Downtown parking district; and 3) parking lot screening and landscape standards. For these parking provisions, refer to the Downtown San Rafael Precise Plan Form-Based Code, which adopted by separate ordinance and incorporated herein by reference.

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Section 8.3. Amend Section 14.18.040 – Parking requirements to read as follows:

Section 14.18.040 – Parking requirements.

A. Off-street parking shall be provided in accord with the following chart. Where the specific use in question is not listed, the community development director shall determine if another similar use exists which may be used to select an appropriate parking standard. In order to make this determination, the community development director may require the submission of survey data from the applicant or collected by the community development department, planning division at the applicant's expense. Parking surveys conducted for this purpose shall be subject to the review and recommendation by the department of public works.

B. Parking Modification. The parking requirement for any specific use listed may be modified so as to provide adequate parking which is fair, equitable, logical and consistent with the intent of this chapter. Such modification may also include reduction in parking ratios for businesses in the Downtown zoning districts that allow the use of private parking facilities to be used for public parking during evening or weekend hours. Parking modifications shall require an application for a use permit and shall be subject to review by the community development director and public works director, and approval by the zoning administrator.

C. For properties located within the Downtown Mixed Use district and Downtown parking district, refer to the Downtown San Rafael Precise Plan Form-Based Code for off-street parking standards, which is adopted by separate ordinance and incorporated herein by reference

D. In addition to the off-street parking requirements listed below, off-street loading and unloading shall be provided for certain uses in accord with [Section 14.18.050](#), Off-street loading and unloading.

E. Off-street parking is not required for FAR increases up to ten percent (10%) of the building or seven hundred fifty (750) square feet, whichever is larger, as granted under [Section 14.16.150](#)(G)(1)(b).

F. Operation. As specified in the Downtown San Rafael Precise Plan Form-Based Code adopted by separate ordinance, parking in the Downtown Mixed Use district may be operated to serve the uses for which the parking was approved, or may be shared with other uses in the Downtown Mixed Use zoning district, and/or be made available to the public, subject to a use permit for parking modifications.

Table [14.18.040](#)

Use Classification	Off-Street Parking Required
Residential	

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Use Classification	Off-Street Parking Required
Single-family residential	2 covered spaces per unit.
Single-family residential, hillside	On streets less than 26 feet wide, a minimum of two additional on-site parking spaces shall be provided (not on the driveway apron) per unit. These spaces should be conveniently placed relative to the dwelling unit which they serve. This requirement may be waived or reduced by the hearing body when the size or shape of the lot or the need for excessive grading or tree removal make the requirement infeasible.
Studios (multifamily unit)	1 covered space per unit.
Studio (duplex unit), 500 sq. ft. or less in size	1 space per unit
Studio (duplex unit), Greater than 500 sq. ft.	1.5 spaces per unit (including 1 covered space).
1 bedroom unit	1.5 spaces per unit (including 1 covered space).
Two-bedroom units	2 spaces (1 covered)
Three or more bedroom units	2 spaces per unit (including 1 covered space).
Guest parking, multifamily	1 space per 5 units.
Mobilehome parks	2 covered spaces per unit.
Senior housing projects	.75 space per unit, or as specified by use permit.

Use Classification	Off-Street Parking Required
Emergency shelters for the homeless, permanent:	
Residential district	1 space for each employee on maximum staffed shift plus 1 space per five beds:
1—5 beds	1 space plus staff parking.

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Use Classification	Off-Street Parking Required
6—10 beds	2 spaces plus staff parking.
11—15 beds	3 spaces plus staff parking.
Commercial and light industrial/office districts	1 space for each employee on maximum staffed shift plus 1 space per 10 beds:
1—10 beds	1 space plus staff parking.
11—20 beds	2 spaces plus staff parking.
<u>21</u> —30 beds	3 spaces plus staff parking.
Emergency shelters for the homeless, temporary or rotating	As specified by use permit.
Emergency shelters serving children and/or families with children	1 space per family based on maximum program capacity plus 1 space per employee on the maximum staffed shift.
Residential care facilities for the non-handicapped:	
Small (0—6 clients)	See single-family residential.
Large (6—10 clients)	1 space for each five clients plus 1 space for each staff person, visiting doctor or employee on maximum staffed shift.
Rooming or boarding houses	1 space for each guest room or as determined by parking study.
Second dwelling units:	
Studio or one-bedroom unit	1 space.
Two or more bedroom unit	2 spaces.
Visitor accommodations	
Bed and breakfast inns	2 spaces plus 1 space per bedroom.

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Use Classification	Off-Street Parking Required
Hotels or motels	1 space per sleeping room plus 1 space for manager plus 1 space for every 2 employees.
Hotels, convention or hotels with banquet, restaurant or meeting facilities, etc.	Parking in addition to the hotel requirement is required, as determined by a parking study. Parking requirement as specified in use permit.
Day care	
Family day care home (small)	No requirement.
Family day care home (large)	Minimum 2 spaces. The required parking for the dwelling unit shall count as the required parking for family day care.
Day care center	1 space per five children. In addition, one of the following must be provided as recommended by the public works director for safety purposes: 1) A posted "loading zone" for dropping-off and picking-up children; 2) A loop driveway with an apron for drop-offs and pick-ups.
General commercial uses	
Retail sales (non-bulky items)	1 space per 250 gross building sq. ft.
Retail sales (bulky items, such as machinery, furniture, vehicles, etc.)	1 space per 400 gross building sq. ft.
Shopping centers	1 space per 250 gross building sq. ft.
Animal care facilities	1 space per 300 gross building sq. ft.
Food and beverage service establishments, excluding fast food restaurants	1 space for each 50 sq. ft. of floor area intended for public use.
Fast food restaurants	1 space per 100 sq. ft. for 50 percent of the gross building sq. ft.; and one space per 65 sq. ft. for 50 percent of the gross building sq. ft. or one space per 2.5 interior seats, whichever is greater.
Funeral and interment services	1 per each 35 sq. ft. of floor area for assembly rooms plus 1 space for each employee, plus 1 space for each car owned by such establishment.

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Motor vehicle sales and service:	
Coin-op washing	1 space at each washing stall and vacuum stall.
Gasoline stations	3 spaces per station, plus.
With minor repairs such as tune-ups, brakes, batteries, tires, mufflers	2 spaces per service bay.
With mini-market area	1 space per 250 sq. ft. of gross retail.
Rentals	1 space per 500 gross sq. ft. of floor area plus 1 space per 1,000 sq. ft. of outdoor rental storage area.
Repairs, major and/or minor	1 space per 500 sq. ft. or 3 spaces per service bay (each service bay may count as one of the parking spaces), whichever is greater.
Sales, new or used vehicles	1 space per 400 gross building sq. ft. excluding auto repair area; plus, for repair portions of the building: 1 space per 500 gross building sq. ft., or 3 spaces per service bay for automobile repair (each service bay may count as one of the parking spaces), whichever is greater, or 1 space per 2,000 sq. ft. open lot area, whichever is greater.
Music rehearsal/recording studios	1 space per 500 gross building sq. ft.
Personal service establishments	1 space per 250 gross building sq. ft.
Barber/beauty shop/nail salon	2 spaces per chair or workstation.
Dry cleaning establishment	2 spaces plus 1 space for each employee.
Laundry (self service)	1 space for each 2 washing machines and/or dry cleaning machines.
Recreation facilities (indoors)	

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Use Classification	Off-Street Parking Required
Bowling alleys	4 spaces for each bowling lane plus additional spaces for other uses.
Game arcades	1 space for each 5 coin-operated amusement devices.
Health clubs and gymnasiums	1 space per 250 sq. ft. of gross building sq. ft.
Poolhalls/billiards	2 spaces for each table or as determined through a parking study.
Theaters	Parking study required. Parking subject to the approval of the community development director or the hearing review body for the development.
Offices and related uses	
Financial services and institutions	1 space for each 200 sq. ft. gross building sq. ft.
Medical services:	
Clinics	1 space per 225 gross building sq. ft.
Hospitals	Parking study required.
Major medical facilities, including extended care facilities	Parking study required.
Offices, excluding mental health practitioners	1 space per 225 gross building sq. ft.
Offices, mental health practitioners	1 space per 250 gross building sq. ft.
Administrative, business and professional offices	1 space per 250 gross building sq. ft.
Industrial	
Industrial uses	1 space per 500 gross building sq. ft.
Light industrial/office mixed-use:	

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Use Classification	Off-Street Parking Required
Light industrial sq. ft. of building	1 space per 500 gross building sq. ft.
Office sq. ft. of building	1 space per 250 gross building sq. ft.
Mini-storage	Parking study required. Subject to approval by the community development director or hearing review body for the development
Public utility facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Storage, warehousing and distribution	1 space per 500 gross building sq. ft.
Wholesale and distribution	1 space per 500 sq. ft. gross building sq. ft.
Cannabis testing/lab, cannabis infused products, cannabis delivery and cannabis distribution	1 space per 500 gross building sq. ft.
Marinas	3 spaces for every 4 boat slips. Plus parking for support uses in the marina, such as restaurants or retail uses.
Public/quasi-public uses	
Libraries, museums and other cultural facilities	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Public service and utility	Parking study required. Subject to approval by the community development director or hearing review body for the development.
Religious institutions	1 space per 4 seats.
Schools (Note: The following are guidelines for public schools)	
Parochial, private	
K—8	3 spaces per classroom or 1 space per 100 sq. ft. of auditorium space, whichever is greater.

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Use Classification	Off-Street Parking Required
9—12	1 space for each 4 students based on maximum school capacity, or as specified by use permit.
Vocational, business trade schools	1 space per 150 gross building sq. ft.
Performing arts or other	1 space per 250 gross building sq. ft.
Transportation facilities	
Bus stations, park and ride facilities, public transit stations	Parking study required. Subject to approval by the community development director or hearing review body for the development.

Section 8.4. Amend Section 14.18.050 – Off-street loading and unloading, subsection F to read as follows:

F. In the Downtown Mixed Use district, on lots less than ten thousand (10,000) square feet, and where a parking lot is provided, the loading area may be incorporated into an aisle or backup area; provided, that there is adequate backup space for required parking spaces as determined by the traffic engineer.

Section 8.5. Amend Section 14.18.060 – Downtown parking district to read as follows:

Section 14.18.060 – Downtown parking district.

The Downtown parking district boundaries shall be as defined by the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. Parking for nonresidential uses in the Downtown parking district shall be provided consistent with the following:

A. The off-street parking requirement is waived for up to 1.0 FAR of the total square footage of buildings located within the Downtown parking district.

B. Off-street parking for building square footage above 1.0 FAR and for all residential uses shall be provided consistent with the parking requirements the Downtown San Rafael Precise Plan Form-Based Code.

Section 8.6. Repeal Section 14.18.061 – Downtown’s west end and environs.

Section 8.7. Amend Section 14.18.120 – Tandem parking subsection E to read as follows:

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E. Within the Downtown Mixed Use district, when the tandem parking spaces are assigned to a single residential unit or where the tandem spaces are assigned to a single tenant subject to exception permit as outlined under Section 14.24.020.G.3.

Section 8.8. Amend Section 14.18.160 – Parking lot screening and landscaping to read as follows:

14.18.160 – Parking lot screening and landscaping.

New or substantially renovated parking lots with more than five (5) spaces shall provide landscaping in accordance with the following standards. Substantially renovated parking lots shall be those for which paving material and curbing is removed and the resulting lot is reconfigured. With the exception of sub-sections F, G, H, I, and J below, the provisions of this section do not apply to properties within the Downtown Mixed Use district. The Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance includes provisions and requirements for parking lot screening and landscaping.

The following provisions shall also be used as guidelines for parking lot improvements on remodel projects.

A. Screening. Parking areas visible from the public right-of-way shall be screened to headlight height through the use of landscaped earth berms, low walls, fences, hedges, or combination thereof, with trees and plantings, or similar means. Fences, walls, and hedges need not be solid.

B. Minimum trees. A minimum of one (1) canopy tree shall be provided for every four (4) parking spaces. Trees shall be distributed throughout the parking area to shade cars and paved areas. Clustering of trees may be considered subject to approval of the decision-making body, where it is demonstrated that the intent will be met to provide ample shading and screening of parking areas and enhance the visual appearance of parking lots. In downtown, this section does not apply to parking lots for twenty (20) or fewer cars, and the standards in this section may be reduced for parking lots for twenty-one (21) to forty (40) cars, subject to recommendation by the design review board and approval of a minor design review permit.

C. Tree Selection and Distribution. Parking lot trees shall be selected and located to achieve maximum shading of paved surfaces, through utilization of the following techniques:

1. Distribute trees uniformly throughout parking areas, incorporating use of regularly spaced finger islands (see illustration below) and landscape medians between parking rows to the extent practicable.
2. Cluster trees on southerly and westerly perimeters of parking lots.
3. Provide minimum tree canopy diameters of fifteen feet (15') and include tree species with large canopy diameters, e.g., greater than thirty feet (30').

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4. Increase tree planting ratios as necessary to provide equivalent canopy coverage of the site where less than half of the required trees are proposed as large canopy tree species.

D. Minimum Size of Planting Areas and Tree Wells. Planting areas containing trees and tree wells shall have a minimum area of thirty-six (36) square feet and a minimum interior width of six feet (6'), exclusive of curbs. For large canopy tree species, tree wells shall have a minimum area of sixty-four (64) square feet and a minimum width of eight feet (8') exclusive of curbs, to the extent this larger planting area is practicable and can be accommodated on-site.

E. Curbs and Wheel Stops. A maximum overhang of two feet (2') shall be allowed for overhang of vehicles into planting areas. All planters and sidewalks located adjacent to driveways, loading areas, or parking lots shall be protected along the parking lot side with concrete curbs or wheel stops. Alternative treatments may be considered, subject to the approval of the community development director (or the director's designated appointee) or the appropriate hearing review body.

F. Irrigation. Permanent, automatic irrigation systems shall be provided for all planted areas, in compliance with [Section 14.16.370](#) Water-Efficient Landscape.

G. Soil Preparation and Verification. Planting areas and tree wells shall be prepared by excavation to a minimum depth of three feet (3'), scarifying sides of tree wells (to promote soils integration, water absorption and healthy root growth), amendment of soil (as recommended based on soils analysis), and compaction to no more than seventy-five percent (75%) within twelve inches (12") of a curb or sidewalk. For parking lots containing twenty-five (25) spaces or more a licensed landscape architect shall monitor tree well excavation, soil preparation and tree planting and provide written verification to the community development director that excavation, soil preparation and tree planting have complied with the standards established by this subsection to promote normal healthy tree growth. Such written verification shall be received by the community development director prior to use of the parking facility and/or occupancy of the use.

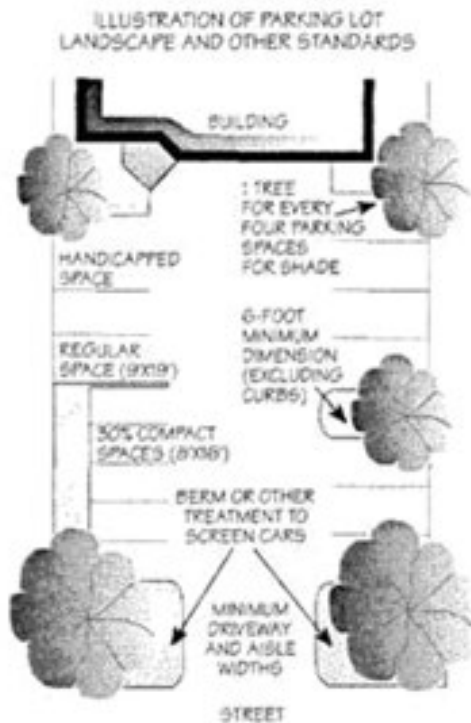
H. Maintenance. Landscaped areas associated with parking lots shall at all times be maintained in a healthy and clean condition, with replanting as necessary to maintain compliance with the previously approved landscape plan. For parking lots containing twenty-five (25) spaces or more the property owner shall obtain a minimum one (1) year maintenance contract and warranty for tree growth and provide documentation of such to the community development director prior to use of the parking facility and/or building or site occupancy.

I. Parking Structures. The top level of parking structures shall utilize light-colored/high albedo paving material (reflectance of at least 0.3), or utilize shade structures, photovoltaic carports, landscaped trellises, or trees to achieve at least fifty percent (50%) daytime shading.

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J. Bio-filtration. Persons owning or operating a parking lot, gas station, area of pavement or similar facility developed with hardscape surfaces shall undertake all practicable measures to minimize discharge of pollutants to the city storm drain, in compliance with city standards, including utilization of all best management practices and the requirements of San Rafael Municipal Code [Title 9.30](#) (Urban Runoff) enforced by the department of public works. To facilitate compliance with city storm drain pollution discharge requirements, innovative landscape design concepts may be substituted for the above standards subject to the approval of the appropriate review body, including use of permeable pavers, bio-swales, at grade curbs and openings in curbs to allow filtration of runoff through landscape areas. Landscape plans and alternative measures shall subject to compliance with any recommendations of the department of public works.

Illustration [14.18.160](#)



Section 9. Amendments to Chapter 14.19 – SIGNS

Section 9.1. Amend Section 14.19.053 – Location, placement and design of signs, subsection I. – Placement and Design of Projecting Blade Signs to read:

- I. Placement and Design of Projecting and Blade Signs. The location and placement of projecting and blade signs shall be subject to the following provisions:

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1. The maximum permitted sign area for a projecting sign shall be thirty-six (36) square feet, except in the Downtown Mixed Use districts. In the Downtown Mixed Use districts, a projecting sign shall not exceed five (5) square feet in area.
2. A minimum vertical clearance of eight feet (8') above the sidewalk, path, public property, public right-of-way or easement shall be maintained.
3. Signs shall be placed at or below the sill of the second floor windows in a multi-story building or below the eave line of a single-story building. Projecting signs shall be permitted for a ground floor business or use only.
4. Signs shall not project more than a distance of six feet (6') from the building face, including all structural members. In no case shall the sign project closer than two feet (2') from the street curb.
5. Signs shall be placed to maintain appropriate sight distance.
6. When projecting and blade signs are illuminated, the conduit and wiring that provides the source of illumination shall be concealed or screened, to the extent feasible.
7. To avoid visual clutter, a minimum distance of fifteen feet (15') shall be maintained between projecting and blade signs that are located on the same property. This provision does not apply in the Downtown Mixed Use districts.

Section 9.2. Amend Section 14.19.065 – Downtown districts to read as follows:

14.19.065 - Downtown Mixed Use districts.

Size, placement and design of signs in the Downtown Mixed Use districts are intended for view primarily by pedestrians and persons in vehicles nearby at the street level, not from long distances. The unique characteristics found in the Downtown Mixed Use districts include a higher density of business uses, and multiple ground floor business uses, which substantiate special sign provisions. Signs located in the Downtown Mixed Use districts shall be subject to the following provisions:

- A. Permitted sign area shall be based on frontage width of a business or use, per the provisions of Sections [14.19.064\(A\)](#) through (E) and [14.19.064\(G\)](#).
- B. For all non-residential uses except office use, a maximum of three (3) signs shall be permitted per frontage for each business or use, which may be a combination of sign types. For office uses in the Downtown Mixed Use district, a maximum of one sign shall be permitted per frontage for each business or use.

Section 9.3. Amend Table 14.19-2 – Sign Regulations for Zoning Districts, Downtown Districts to read:

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Table 14.19-2
Sign Regulations for Zoning Districts

Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
Single-Family Residential & Duplex Residential Districts	Wall [permitted uses, see Section 14.19.062(A)]	One (1) per residence	Five (5) square feet	NA	No illumination+
	Monument [subdivision or neighborhood sign]	Two (2) per entrance	Twenty (20) square feet (per sign)	Six feet (6')	External illumination only+
	Wall, Monument, Directory, Changeable Copy [uses subject to approval of a Conditional Use Permit, see Section 14.19.062(B)].	One (1) per site	Twenty (20) square feet	Six feet (6')	External illumination only+
Multiple-Family Residential Districts & Residential/Office Districts	Wall, Projecting/Blade, Awning, Monument, Directory, Changeable Copy	Two (2) per site	Multiple-Family Residential Districts: Twenty-five (25) square feet (e.g., building identification, rental & vacancy information)** Residential/Office Districts: Thirty-six (36) square feet**	Six feet (6')	External illumination only+
Commercial, Office, Industrial, Marine Related	Wall, Window, Projecting/Blade, Awning, Marquee, Mansard,	For nonresidential uses except office uses: Two (2) per	For nonresidential uses except office uses: One (1) square	Six feet (6') for monument signs Twenty-one feet (21') for	External illumination, Internal illumination, Reflective

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Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
Districts (NC, GC, O, C/O, FBWC, LI/O, I, CCI/O, M and MC)	Monument, Directory, Changeable Copy and Pole/Pylon signs	frontage of business or use**	foot for each linear foot of building width of business or use frontage** Minimum sign area of twenty-five (25) square feet. See 14.19.064 .	pole/pylon signs Twenty-five feet (25') for freeway-oriented pole/pylon signs*	illumination and Neon
		For office uses:	For office uses:		
		One (1) per frontage of business**	One-half (½) square foot for each linear foot of building width of business frontage** Minimum sign area of fifteen (15) square feet. See 14.19.064 .		
Downtown Mixed Use Districts	Wall, Window, Projecting/ Blade, Awning, Marquee, Mansard, Monument, Directory, Changeable Copy and Pole/Pylon sign.	Three (3) per frontage of business or use, except for office use (1 max)**	Same as permitted in the Commercial, Office, Industrial and Marine Related Districts.	Six feet (6') for monument signs Twenty-one feet (21') for pole/pylon signs	External illuminated, Internal illumination, Reflective illumination and Neon
	Second floor tenant: Window	Second floor tenant: One (1) per use.	Second floor tenant: Five (5) square feet	NA	No illumination permitted.
Other Districts	Compliance with standards and provisions of the zoning district that is most	Compliance with standards and provisions of	Compliance with standards and provisions of district most similar to the	Compliance with standards and provisions of	Compliance with standards and provisions of

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Zoning District	Permitted Sign Type	Permitted Number of Signs	Maximum Sign Area**	Maximum Sign Height (freestanding)	Permitted Illumination
	similar to the subject zoning district.	district most similar to the subject zoning district.	subject zoning district.	district most similar to the subject zoning district.	district most similar to the subject zoning district.

+ Exception: Internally illuminated and backlit illumination permitted for property and building address signs.

* Freeway-oriented signs are permitted for businesses and properties, which directly face a frontage road that is both parallel to and generally level with Highways US 101 or I-580 (Table 14.19-1).

** Unless, as noted, where more than one (1) sign is permitted for a business or use, the combined area of the signs shall not exceed the maximum permitted sign area (see [Section 14.19.061](#)).

Note: See Table 14.19-1 (Requirements and limitations for freestanding signs) and Section 14.19.053.L (Placement and design of freestanding signs) for additional requirements.

C. Projecting and marquee signs placed under a roof eave or awning are encouraged to provide pedestrian-oriented signage. Projecting signs shall not exceed five (5) square feet in area.

D. Second floor tenant window signs are permitted and shall not exceed one per business or use and five (5) square feet in area.

Section 9.4. Amend Section 14.19.070 – Temporary signs, subsection G - Temporary, Portable A-frame Signs in the Downtown Districts to read:

G. Temporary, Portable A-Frame Signs in the Downtown Mixed Use District. The location, placement and provisions for temporary, portable A-frame signs permitted in the Downtown Mixed Use districts shall be established by standards and subject to fees, as set forth by resolution of the city council from time to time.

Section 10. Amendments to Chapter 14.25 – ENVIRONMENTAL AND DESIGN REVIEW PERMITS

Section 10.1. Amend Section 14.25.010 – Specific purposes by adding new subsection H to read as follows:

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H. Ensure superior urban design and the protection of historic resources in the Downtown Mixed Use district, as stipulated in and promoted by the vision of the Downtown San Rafael Precise Plan and Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference.

Section 10.2. Amend Section 14.25.040 – Improvements subject to review to read as follows:

Section 14.25.040 – Improvements subject to review.

No improvement subject to environmental and design review shall hereafter be constructed, located, repaired, altered, expanded or thereafter maintained, except in accordance with a design approved as provided in this chapter. The following items shall be subject to environmental and design review permits, whether or not a building permit is required.

A. Major Physical Improvements.

1. For major projects located in the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
2. New construction on vacant property, including, but not limited to:
 - a. Any residential structure located within one hundred (100) vertical feet of a ridgeline.
 - b. Residential structures with three (3) or more dwelling units, and boarding houses.
 - c. Residential structures as required by subdivision or zoning approvals.
 - d. Offices, retail and industrial structures.
 - e. Public, quasi-public, religious, social and similar community structures.
 - f. Marinas and yacht clubs.
3. Modifications to existing structures, including, but not limited to:
 - a. Additions to multifamily residential structures with three (3) or more units, where the addition constitutes more than forty percent (40%) of the total square footage of the building.
 - b. Additions and alterations to existing nonresidential structures where the addition is greater than forty percent (40%) of the existing square footage. (Note: The community development director may determine that an addition or alteration greater than forty percent (40%) which has a minor impact on the visual character or function of a building is subject to a minor design review permit.).
 - c. Relocation of a nonresidential structure, or of a residential structure with three (3) or more existing dwelling units.
 - d. Second dwelling units, as prescribed by Section 14.16.285.C.9.
4. Major site design improvements, including but not limited to:

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- a. Subdivisions located on properties with an average slope of twenty-five percent (25%) or greater, or with a general plan land use designation of hillside residential or hillside resource residential.
 - b. Cutting of one thousand (1,000) or more cubic yards per site per year, or fill of two thousand (2,000) or more cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.)
 - c. Landscaping as part of a development subject to major environmental and design review.
 - d. Circulation and parking and loading facilities for pedestrians, bicycles and motor vehicles on a development subject to major environmental and design review.
 - e. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See [Chapter 14.19](#), Signs.
5. Development subject to review as a major physical improvement pursuant to any other provision of this title.
6. Mural signs painted on the exterior surface of a wall of an existing or new structure.
7. Wireless telecommunications facility, as prescribed under Section 14.16.360.B.
- B. Minor Physical Improvements.
1. For minor projects located in the Downtown Mixed Use district, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
 2. New construction and modifications, including, but not limited to:
 - a. Any new residence or residential additions over five hundred (500) square feet in size, or any modification that increases the height of the roofline, when located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations.
 - b. Any addition or modification that results in lifting the existing ground level floor of a residence to construct a new ground level floor (lift and fill) located on single-family or duplex residential lots (See Section 14.25.050.F.6. for design criteria).
 - c. Accessory structures, or additions or modifications to any residential structure located within one hundred (100) vertical feet of a ridgeline when such improvement increases the height of a roofline, or increases building scale and mass and is determined to be visible from off-site.

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- d. Additions to multifamily residential structures containing three (3) or more dwelling units, where the addition constitutes forty percent (40%) or less than the total square footage of the building.
 - e. New two-story single-family and duplex residential structures proposing an upper story level over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).
 - f. Upper-story additions to single-family and duplex residential structures over five hundred (500) square feet in size (See Section 14.25.050.F.6. for design criteria).
 - g. Accessory structures on developed non-residential properties over one hundred twenty (120) square feet in size.
 - h. Accessory structures on developed multi-family residential properties over two hundred forty (240) square feet in size.
 - i. New construction or reconstruction of boat docking facilities,
 - j. Additions and alterations to existing nonresidential structures and/or additions to existing nonresidential structures where the addition is forty percent (40%) or less of the existing square footage and no greater than one thousand two hundred fifty (1,250) square feet. Based on the scope and potential impact of the change(s), the level of review may be decreased by the community development director.
 - k. Structures over the height limit, including flagpoles, aboveground utility distribution facilities, including communications towers and public water tanks, windmills, monuments, steeples, cupolas, and screens for mechanical equipment (chimneys are exempt).
 - l. Wireless communications facilities, as prescribed under Chapter 14.16.360.B.
3. Minor site design improvements, including, but not limited to:
- a. Cutting of more than fifty (50) cubic yards and less than one thousand (1,000) cubic yards per site per year, or fill more than fifty (50) cubic yards and less than two thousand (2,000) cubic yards per site per year. (Exempt: Where removal is being done in accordance with an approved and legally effective tentative and/or final subdivision map, and a legally effective building permit.) (Note: A use permit is also required where the principal use proposed is cutting or filling.)
 - b. Landscaping, exterior lighting, fencing, and retaining walls over four feet (4') high, proposed as part of a minor physical improvement subject to environmental and design review.
 - c. Landscape revisions determined to be minor revisions to an existing hillside residential, multifamily or nonresidential development, proposed as part of a minor physical improvement.
 - d. Parking and loading areas, including driveways, sidewalks and curb cuts, on a development subject to minor environmental and design review,
 - e. Commercial parking lots, including private parking and new parking locations for uses with insufficient parking.
 - f. Drive-Through Facilities. See [Section 14.16.110](#), Drive-through facilities, of this title, for regulations.

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- g. Signs for a development subject to environmental and design review. The sign permit application shall be reviewed for location, size and type of signs concurrently with the design review application. See [Chapter 14.19](#), Signs, of this title.
- 4. Development subject to review as a minor physical improvement pursuant to any other provision of this title.

C. Administrative Design Permits.

- 1. For projects located in the Downtown Mixed Use district that are subject to administrative design review, refer to the Downtown San Rafael Precise Plan and Form-Based Code which is adopted by separate ordinance.
- 2. Decks, or additions to existing decks, higher than thirty inches (30") above grade, located on residential lots with average slopes of twenty-five percent (25%) or greater or located in the hillside resource residential and hillside residential general plan land use designations, except no review is required for decks:
 - a. Less than a total of one hundred (100) square feet,
 - b. Not visible from the public street or adjacent properties, or
 - c. Replacing an existing elevated deck with a deck of same size and configuration.
- 3. New single-family residences located on a flag lot.
- 4. New one-story duplexes, or ground floor additions over five hundred (500) square feet in size or that include addition of a bedroom.
- 5. Conversion of a single-family residence to a duplex.
- 6. Design changes to projects that previously obtained design review approval. This includes modifications to upper story additions, modifications to windows or architectural, site design or landscaping changes. Based on the scope and potential impact of the change(s), the level of review may be increased by the community development director.
- 7. Outdoor eating areas (as prescribed by [Section 14.17.110](#)).
- 8. Minor exterior alterations to a structure or development, which are subject to environmental and design review, that, in the opinion of the community development director, have minimal impacts on the visual character or function of the building or development.
- 9. Satellite dishes over the height limit in a multifamily or nonresidential district.
- 10. Residential fences over seven feet (7') in height, and as set forth under the criteria in [Section 14.16.140](#).

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11. Nonresidential fencing over seven feet (7') in height as set forth under [Section 14.16.160](#) proposed to be located in a front yard or between the principal building and public street frontage(s).
12. Detached accessory structures located on hillside residential lots with slopes of twenty-five percent (25%) or greater or located in areas with a general plan land use designation of hillside residential or hillside resource residential.
13. Retaining walls over four feet (4') in height (measured from the top of the footing or finished grade, as determined by the community development director, to the top of the wall) and/or minor landscaping or grading modifications on properties located on a hillside lot as identified in [Section 14.12.020](#) (-H hillside overlay district) of this title, or located within one hundred (100) vertical feet of a ridgeline.
14. Minor landscaping revisions to existing or approved multifamily or nonresidential development that are determined to alter the character of the site.
15. Minor modifications to existing parking lots (reconfiguration or expansion).
16. Exterior repainting and refinishing on a development which significantly deviates from the color scheme and/or palette previously approved through an environmental and design review permit, or on structures in the hillside area as identified in [Section 14.12.020](#) of this title when the colors or materials are not from the approved earthtone-woodtone list.
17. Outdoor storage areas.
18. Design changes to dwelling units that were existing or approved as of January 1991 and that are being replaced pursuant to [Section 14.16.060](#) (conservation of dwelling units), or dwelling units that are being replaced pursuant to Section 14.16.270.B.5 (nonconforming structures) of this title.
19. Modifications to properties in the Eichler-Alliance (-EA) combining district which increase the height of roof structures by more than six inches (6") or change the roof pitch, including the creation of sloping roofs, covered atriums that exceed the existing roof height, clerestories or exposed exterior ducting, but excluding the review of solar collectors which are flush-mounted or not visible from the street frontage.
20. Rooftop equipment and screens visible from off-site.
21. Minor additions or modifications to a wireless communications facility, as prescribed under Section 14.16.360.B.
22. Residential accessory structures to be located between the front-facing wall of the primary structure and the front setback except as permitted by Section 14.16.020.E.
23. Non-residential accessory structure one hundred twenty (120) square feet or less in size.

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24. Ancillary detached accessory structures on a developed multi-family residential property two hundred forty (240) square feet or less in size.

25. Development subject to review for an administrative design permit pursuant to any other provision of this title.

D. Exempt from Design Review.

1. Single-family dwellings when sited on individual lots with frontage on a public street and not otherwise subject to design review as listed above.

2. Ordinary maintenance and repairs.

3. New decks or additions to decks, except where review is required for decks located in hillside areas as prescribed in Section 14.25.040.C, above.

4. Installation of solar panels on existing structures or grounds, as provided under state law and in compliance with all applicable development standards.

5. Public art installations on public or private property approved through a City-established public art program. For purposes of this section (14.25.040), "public art" is defined as all forms of art including, but not limited to: sculptures, murals, mosaics, and fountains, which are located on the exterior of a publicly owned facility or on a privately owned property when such artwork is placed in a location intended to be visible to the general public.

6. The community development director may declare improvements which have been determined to be minor or incidental within the intent and objectives of this chapter to be exempt from review.

Section 10.3. Amend Section 14.25.050 subsection B – Consistency with Specific Plans to read as follows:

E. Consistency with Specific Plans.

1. In addition to the criteria listed below, development will be evaluated for consistency with applicable neighborhood and area design plans. Adopted plans which include design guidelines include: Hillside Residential Design Guidelines Manual, San Rafael Design Guidelines, the San Rafael General Plan 2040, specifically the neighborhoods element, and community design and preservation elements, and any design guidelines or amendments that are adopted by resolution.

2. Development proposed within the Downtown Mixed Use district shall comply with the design criteria and provisions set forth in the Downtown San Rafael Precise Plan Form-Based Code, which is adopted by separate ordinance and incorporated herein by reference. The criteria listed below shall apply where the Downtown San Rafael Precise Plan form-based code is silent on the specific criteria topic.

EXHIBIT B

**Amendments to the San Rafael Municipal Code Zoning Map to Rezone Real Properties from 4SRC, CMSU, HO, 2/3 MUE, 2/3 MUW, WEV and 5/M R/O Districts to Downtown Mixed Use (DMU) District
ZC21-003**

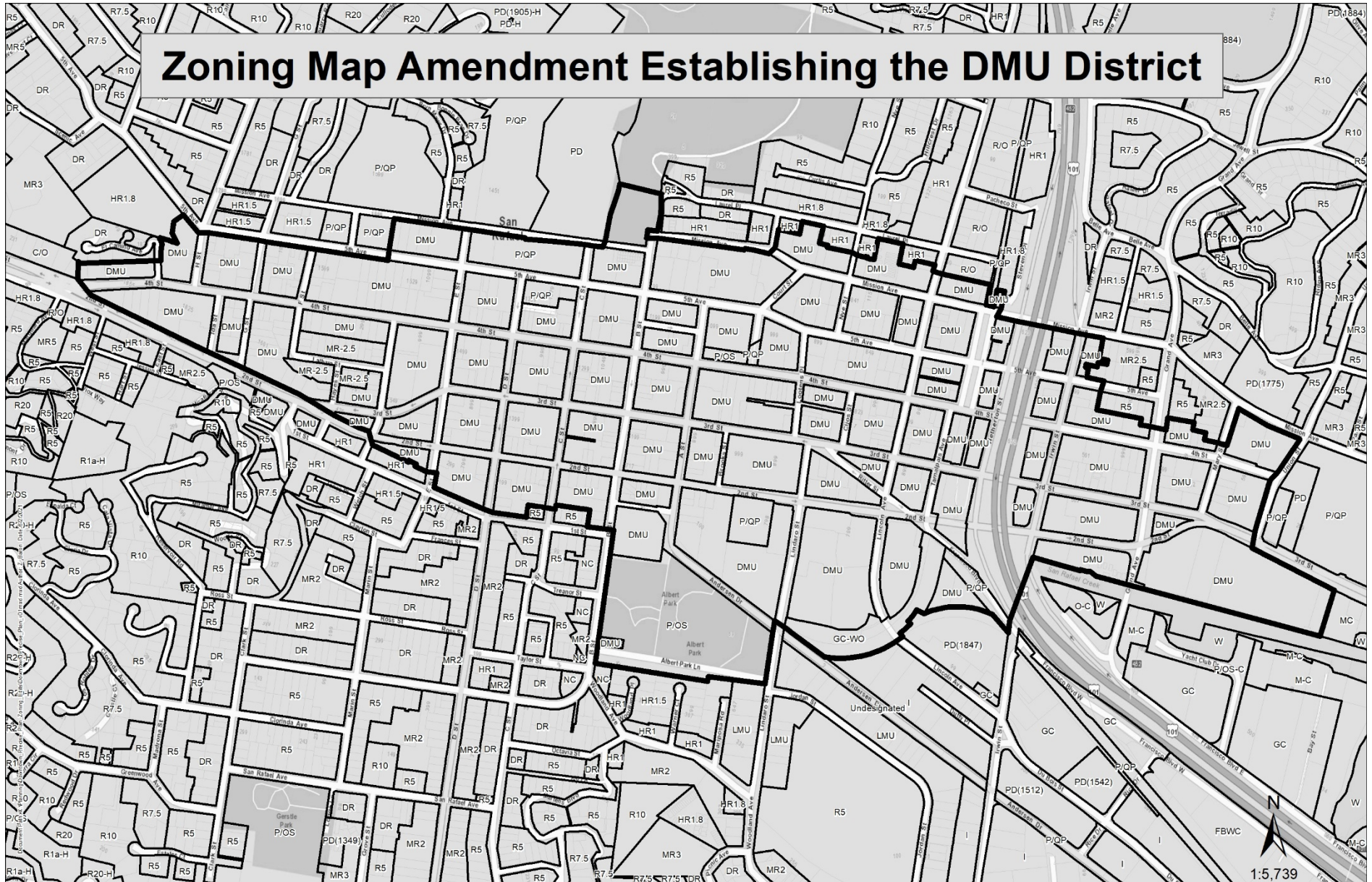


EXHIBIT C
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING
CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND
MISCELLANEOUS REGULATIONS
May 21, 2021

The following are amendments to the San Rafael Municipal Code, Title 14 (Zoning) to incorporate revisions and additions to the cannabis use regulations:

Section 1. Amendments to Chapter 14.03 - DEFINITIONS

Section 1.1. Amend Section 14.03.030 – Definitions as follows:

DELETE definition of “Cannabis infused products”

ADD a new definition for cannabis manufacturing to read as follows:

“Cannabis manufacturing” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product. Manufacturing includes the processes of extraction, infusion, packaging or repackaging, and labeling or relabeling of cannabis products.

Section 2. Amendments to Chapter 14.05 – COMMERCIAL AND OFFICE DISTRICTS (GC, NC, O, C/O, R/O, FBWC)

Section 2.1. Amend Table 14.05.040 to replace “cannabis infused products” with “cannabis manufacturing” and amend footnotes as shown below:

Table [14.05.020](#)

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses							
Cannabis Manufacturing							
Cannabis Distribution							
Card rooms							See Chapter 10.36

- (1) Reserved.
- (2) Shall not be located within six hundred feet (600') from schools (public and private), as measured from the property lines of each parcel.
- (3) See [Section 14.17.100](#) (Residential uses in commercial districts).

EXHIBIT C
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING
CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND
MISCELLANEOUS REGULATIONS
May 21, 2021

Section 3. Amendments to Chapter 14.06 – INDUSTRIAL DISTRICTS (I, LI/O, CCI/O, LMU)

Section 3.1. Amend Table 14.05.040 to replace “cannabis infused products” with “cannabis manufacturing” and amend footnotes as follows:

Table [14.06.020](#)

Types of Land Use	I	LI/O	CCI/O	LMU	Additional Use Regulations
Cannabis Related Uses					
Cannabis Testing/lab	P (1)	P (1)	P (1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
Cannabis Delivery	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
Cannabis Manufacturing	P(1)	P(1)	P(1)		*Subject to additional regulations and permitting (See SRMC Chapter 10.96)
Cannabis Distribution	P(1)	P(1)	P(1)		

(1) Shall not be located within three hundred (300) feet from schools (public and private), as measured from the property lines of each parcel.

Section 4. Amendments to Chapter 14.17 – PERFORMANCE STANDARDS

Section 4.1. Repeal Section 14.17.040 – Family day care home for children.

Section 5. Amendments to Chapter 14.22 – USE PERMITS

Section 5.1. Amend Section 14.22.180 – Expiration to read as follows:

EXHIBIT C
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING
CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND
MISCELLANEOUS REGULATIONS
May 21, 2021

14.22.180 - Expiration.

Use permits are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

Section 6. Amendments to Chapter 14.23 – VARIANCES

Section 6.1. Amend Section 14.23.170 – Expiration to read as follows:

14.23.170 - Expiration.

Variations are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

Section 7. Amendments to Chapter 14.24 - EXCEPTIONS

Section 7.1. Amend Section 14.24.150 – Expiration to read as follows:

Section 14.24.150 – Expiration.

Exceptions are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued, or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

Section 8. Amendments to Chapter 14.25 – ENVIRONMENTAL AND DESIGN REVIEW PERMITS

Section 8.1. Amend Section 14.25.200 – Expiration to read as follows:

Section 14.25.200- Expiration.

Environmental and design review permits are valid for two years unless a different expiration date is stipulated at the time of approval, a building permit has been issued and construction diligently pursued, a certificate of occupancy has been issued or the permit is renewed or extended. If more than one phase of a development is approved in a single action and the

EXHIBIT C
AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE, TITLE 14 REGARDING
CANNABIS MANUFACTURING USE, LARGE FAMILY DAY CARE HOMES AND
MISCELLANEOUS REGULATIONS
May 21, 2021

later phases remain outstanding, their approval shall lapse at the end of the authorized time frame.

Section 9. Amendments to Chapter 14.27 - AMENDMENTS

Section 9.1. Amend Section 14.27.010 – Specific purposes to read as follows:

Section 14.27.010 – Specific purposes.

The purpose of this chapter is to establish procedures for amending the zoning map or zoning regulations whenever the public necessity, convenience or general welfare require such amendments. The amendment process is necessary to maintain consistency with the general plan and state law over time, to supplement zoning regulations, and to improve the effectiveness and clarity of the zoning ordinance. The provisions and procedures of this chapter are applicable to amendments to the Downtown San Rafael Precise Plan, form-based code and downtown zoning map, which are adopted by separate ordinance.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING THE
DOWNTOWN SAN RAFAEL PRECISE PLAN – CHAPTER 9 DOWNTOWN FORM-BASED
CODE TO SERVE AS THE PRIMARY REGULATORY CITY ZONING CODE FOR
DOWNTOWN SAN RAFAEL
(CASE NO. ZO21-004)**

WHEREAS, in 2004, the City adopted the San Rafael General Plan 2020 with a horizon year of 2020. In 2018, the City initiated a General Plan Update (General Plan 2040) to move the Plan’s horizon forward 20 years to 2040; and

WHEREAS, in late 2018, the City received a One Bay Area Grant to fund the preparation of a focused Plan for Downtown San Rafael, the Downtown San Rafael Precise Plan (Downtown Precise Plan), under the umbrella of the San Rafael General Plan 2040. The Downtown Precise Plan was budgeted and scoped to include a “form-based code” to regulate zoning for the Downtown Precise Plan area, replacing the existing property zoning and many of the existing zoning code regulations in San Rafael Municipal Code (SRMC) Title 14, Zoning (Zoning Ordinance) that are applicable to the Downtown area; and

WHEREAS, in Fall 2020, the City completed and released the Draft General Plan 2040 and the Downtown Precise Plan for public review. The Downtown Precise Plan includes Chapter 9 – Downtown Form-Based Code (Form-Based Code); and

WHEREAS, Chapter 9- Downtown Form-Based Code establishes four regulating zones exclusive to the Downtown Precise Plan area that are based on the transects of natural to urban form. Each form-based zone includes, among others, site and buildings standards and regulations, parking standards, and land use regulations; and

WHEREAS, to introduce, incorporate by reference, and establish internal consistency with the overarching, citywide Zoning Ordinance, amendments to SRMC Title 14 were drafted, which include the establishment of a new Downtown Mixed-Use (DMU) District. The DMU District serves as the foundation or “base” zone for Downtown that bridges the Zoning Ordinance with Chapter 9- Downtown Form-Based Code; and

WHEREAS, the Downtown Precise Plan Form-Based Code, together with the amendments to SRMC Title 14 – Zoning and Zoning Map (ZO-21-003 and ZC21-002) adopted by separate ordinance, establish the state-require zoning legislation for Downtown San Rafael within the boundaries of the DMU District; and

WHEREAS, per the provisions of the California Environmental Quality Act (CEQA), the City prepared a Final Environmental Impact Report (FEIR) to assess the environmental impacts of the San Rafael General Plan 2040 and the Downtown Precise Plan including the Form-Based Code. The FEIR has been certified by separate resolution of the City Council; and

WHEREAS, in considering action to adopt the Downtown Precise Plan form-based code, the City Council must first determine if the certified FEIR adequately assesses the environmental impacts of this action. The certified FEIR has concluded that the project, which includes the adoption of the Downtown Precise Plan will result in significant and unavoidable impacts associated with Air Quality, Cultural Resources, Greenhouse Gas Emissions, and Transportation. The City Council has weighed the proposed project benefits against the significant, unavoidable adverse environmental effects. By separate resolution and consistent with the CEQA Guidelines Section 15063, the City Council has approved the CEQA Statement of Findings of Fact and Statement of Overriding Considerations supporting and substantiating

adoption of the General Plan 2040, the Downtown Precise Plan, and the related amendments to SRMC Title 14 – Zoning. This separate resolution also approved a Mitigation Monitoring and Reporting Program (MMRP) to ensure that the required FEIR mitigation measures are incorporated into the project action; and

WHEREAS, on July 29, 2021, the Planning Commission of the City of San Rafael held a duly noticed public hearing on the proposed Downtown Precise Plan and Form-Based Code, accepting all public testimony and the written report of the Community Development Department. The Planning Commission approved Resolution No. 2021-06 recommending City Council adoption of the Downtown Precise Plan, conforming amendments to the San Rafael Municipal Code, and the Form-Based Code as the zoning regulation for Downtown San Rafael; and

WHEREAS, on August 2, 2021 by action of separate resolution, the City Council adopted the San Rafael General Plan 2040 and the Downtown Precise Plan; and

WHEREAS, on August 2, 2021 by separate ordinance, the City Council adopted amendments to the San Rafael Municipal Code (SRMC) Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) to introduce, reference and incorporate the Downtown Precise Plan Form-Based Code by: a) establishing a new Downtown Mixed-Use (DMU) District that encompasses the boundaries of the Downtown Precise Plan area and serves as the base zoning and foundation for the Form-Based Code; b) amending, deleting and replacing certain zoning provisions applicable to Downtown San Rafael; and c) introducing new provisions to address and reference the Downtown Precise Plan Form-Based Code that is proposed to be adopted by this ordinance; and

WHEREAS, on August 2, 2021, the City Council held a duly noticed public hearing through a public notice published in the Marin Independent Journal. The Council considered the proposed Downtown Precise Plan Chapter 9 – Downtown Form-Based Code presented in attached Exhibit A, accepting all public testimony and the written report of the Community Development Department; and

WHEREAS, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 to support the adoption of the Downtown Precise Plan Chapter 9- Downtown Form-Based Code presented in attached Exhibit A:

1. The adoption of the Form-Based Code together with the amendments to the Zoning Ordinance and Zoning Map adopted by separate ordinance (ZO21-003 and ZC21-002) are consistent with the policies and programs of the adopted San Rafael General Plan 2040 and Downtown Precise Plan in that:
 - a. The Form-Based Code presents development form regulations as well as use provisions that are consistent with the Downtown Mixed-Use land use category of the General Plan 2040 and the Downtown Mixed-Use (DMU) District. The Downtown Mixed-Use land use category and the DMU District: 1) call for allowing a mix of land uses at higher development intensities within the City; and 2) depart from the traditional residential density limits through use of building height limits and prescribed building form standards, and transition development allowances along the edges of Downtown. Lastly, the Form-Based Code would implement Land Use Element Program LU-2.1A, which recommends amending the Zoning Ordinance and Zoning Map to incorporate the policies and programs of the General Plan 2040, thus resulting in consistency between the General Plan and zoning.
 - b. The Form-Based Code would be consistent with Land Use Element, specifically Goal LU-1, Policy LU-1.10, Policy LU-1.17, Policy LU-1.18, Policy LU-2.2, and Program LU-2.2B in that it would: 1) support and respond to the Downtown Precise Plan which sets forth well-managed changes and growth for Downtown; 2) codify the recommendations of the Downtown Precise Plan specific to development intensity; 3) codify the building height and height bonus regulations and provisions presented in the Downtown Precise Plan; and 4) support and codify planned mixed-use development in Downtown. Further, the Form-Based Code would implement Policy LU-3.1 (Area

- Plans), which reinforces the preparation and adoption of community-based Area Plans (e.g., the Downtown Precise Plan) to direct planning and future growth for a specific area.
- c. The Form-Based Code would be consistent with the Neighborhood Element, specifically Policy NH-1.1, Program NH-1.1A, Policy NH-1.3, Policy NH-1.7, Program NH-1.7A, Policy NH-1.8 and Program NH-1.8A in that it would: 1) implement the Downtown Precise Plan by providing a clear guide for development and investment; 2) establish the zoning tool to support and guide the development of mixed-use and needed housing in Downtown; 3) ensure that new construction and development is sensitive to Downtown's context; and 4) provide measures to ensure the protection, preservation and enhancement of Downtown's historic resources.
 - d. Together with the accompanying amendments to SRMC Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) adopted by separate ordinance, the form-based code would be consistent with the Community Design policies and programs of the Community Design and Preservation Element, specifically Program CDP-1.5C, Program CDP-2.1A, CDP-2.2A, Policy CDP-3.1, Program CDP-4.1C, Program CDP-4.2A, and Program CDP-4.8A in that they would: a) create a Downtown height profile; b) codify design standards for the “place types” identified in the Downtown Precise Plan; c) adopt a zoning tool that implements the design recommendations of the Downtown Precise Plan; and d) introduce building step-backs as a tool for implementing scale transitions in new development.
 - e. Together with the accompanying amendments to SRMC Title 14 – Zoning (Case Nos. ZO21-003 and ZC21-002) adopted by separate ordinance, the Form-Based Code would be consistent with the Historic Resources policies and programs of the Community Design and Preservation Element, specifically, Policy CDP-5.2, Policy CDP-5.4, in that they would: a) include the adoption of an updated historic resources inventory for Downtown; and b) incorporate incentives for encouraging preservation and stewardship of the Downtown historic resources.
 - f. The Form-Based Code would create consistency with the provisions and regulations of SRMC Title 14 - Zoning provisions, which have been adopted by separate ordinance and incorporated herein by reference.
 - g. The Form-Based Code would be anchored by a newly established DMU District to blanket the Downtown Precise Plan area. The DMU District provides a base zoning and foundation for the Downtown Precise Plan area and Form-Based Code and the other accompanying amendments.
2. The public health, safety and general welfare are served by adoption of the Downtown Precise Plan Chapter 9- Downtown Form-Based Code in that it would:
 - a. Establish standards and regulations on building height and bulk to promote a more urban scale for growth of commerce and housing, while protecting the character and scale of the contiguous neighborhoods and surrounding community.
 - b. Establish standards and regulations that would protect San Rafael's historic resources.
 - c. Establish standards and regulations to promote safe and efficient multi-modal travel.
 - d. Establish standards and regulations that would promote orderly growth and facilitate the development of needed housing in Downtown San Rafael.
 - e. Establish consistency with the General Plan 2040 and the policies of the Downtown Precise Plan.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES
HEREBY ORDAIN AS FOLLOWS:**

DIVISION 1. Findings

The City Council hereby determines and finds that all of the facts and statements contained in the recitals herein, and the findings of Planning Commission Resolution No. 2021-06 adopted June 29, 2021 recommending to the City Council adoption of this Ordinance, are true and correct.

DIVISION 2. Approval

The City Council hereby approves and adopts the Downtown San Rafael Precise Plan Chapter 9 – Downtown Form-Based Code as presented in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A will be updated as necessary to include the finally approved documents, inclusive of any changes made prior to adoption.

DIVISION 3. Publication

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, Marin County, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk a certified copy of the full text of this Ordinance, along with the names of those Councilmembers voting for or against the Ordinance.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, August 2, 2021 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSTAIN: Councilmembers:

ABSENT: Councilmembers:

And will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 16th day of August 2021.

LINDSAY LARA, City Clerk

Exhibit:

A. [Downtown Form Based Code](#) (hyperlink)

ATTACHMENT 6

EDITS TO SAN RAFAEL GENERAL PLAN 2040 MADE AFTER JULY 19, 2021

Page 1-13 **Insert new second paragraph on Page 1-13 (Implementing and Amending the Plan):**

The General Plan focuses on policies and actions to be implemented by the City of San Rafael. However, its success relies on the collective actions of all San Rafael residents and businesses. Many General Plan policies--from water conservation to wildfire prevention-- depend on active, sustained participation by community members. The City will be a role model for the private sector, but ultimately each San Rafael household will need to do its part to achieve the Plan's goals. This is particularly true for those goals related to climate change, resource conservation, and hazard mitigation.

Page 5-24 **Edit Policy CDP-4.10 as follows:**

Policy CDP-4.10: Landscape Design

Encourage ~~and where appropriate require~~ privately owned and maintained landscaping that conserves water, contributes to neighborhood quality, complements building forms and materials, improves stormwater management and drainage, and enhances the streetscape. Natural elements such as plants should be an integral part of site development and should enhance the built environment while supporting water conservation goals.

Page 5-29 **Edit Policy CDP-5.1C as follows:**

Program CDP-5.1C: Certified Local Government (CLG) Designation. Contact the National Park Service State Office and State Historic Preservation Office (SHPO) to ~~evaluate the pros and cons of San Rafael becoming~~ review the necessary steps for San Rafael to become a designated CLG. The designation allows for streamlining, greater local control over preservation decisions, funding opportunities, and technical assistance.

Page 5-32 **Edit Program CDP-5.8C to delete references to specifically named advocacy groups:**

Program CDP-5.8C: Public Events and Social Media. Encourage local preservation advocacy organizations ~~such as the Marin History Museum and San Rafael Heritage~~ to produce events, publications, social media, and exhibits about the historic resources that exist in San Rafael.

Page 5-33 **Edit Program CDP-5.10A to delete references to specifically named advocacy groups:**

Program CDP-5.10A: Walking Tours, Trails, and Historic Festivals. Encourage walking tours, historic trails, mobile apps, and history fairs and programs that attract visitors. Partner with local preservation advocacy groups ~~the Marin Convention and Visitors Bureau, Marin History Museum, San Rafael Heritage,~~ and other organizations to promote events celebrating San Rafael history.

Page 6-31 *Edit Policy C-3.9 as follows:*

Policy C-3.9: Water-Efficient Landscaping

Encourage—and where appropriate require—the use of vegetation and water-efficient landscaping that is naturalized to the San Francisco Bay region and compatible with water conservation, fire prevention and climate resilience goals.

Page 8-22 *Delete last sentence in the text box on the Wildfire Action Plan, as it is inaccurate:*

~~An Advisory Committee has been created to oversee Plan implementation.~~

Page 13-5 *Edit Program EV-1.2B as follows:*

Program EV-1.23B: Equitable Economic Development Strategy (EEDS).

~~Collaboratively~~ develop an EEDS that identifies the economic sectors the City seeks to grow, the mechanisms for attracting these sectors to San Rafael, the areas of the city earmarked for growth, and target estimates for wage levels and business volumes. The Strategy should engage residents, businesses, thought leaders, and community groups and be designed to address locally identified needs, challenges, and priorities. Potential partners for preparing the EEDS should be identified so that the work fully leverages current research, local resources, and expertise.

Page 13-22 *Edit Policy EV-3.4 as follows:*

Policy EV-3.4: Water-Dependent Businesses

Ensure that commercial properties along San Rafael’s shoreline, including the San Rafael Creek/Canal, leverage their waterfront locations and include public amenities such as shoreline walkways. The City supports the continued use of these sites for water-dependent activities such as boat sales, boat repair, marinas, and water-oriented restaurants. Complementary uses such as housing and mixed use development also may be considered. Plans for Canalfront properties should also align with broader economic development and anti-displacement programs for the Canal community.

See the Mobility Element for policies on water transportation, including water taxis. See the Conservation and Climate Change Element for policies on boating and water quality. See also Policy CSI-4.11 on canal dredging and NH-3.4 on Canal Waterfront land uses.

Page 14-21 *Edit Policy EDI-4.6 as follows:*

Policy EDI-4.6: A Compassionate City

Support organizations and service providers that help those in need in San Rafael. Non-profit and public entities providing housing, transportation, health care, and other social services to lower income clients, unhoused residents, and older adults are valued community partners and should remain an essential part of San Rafael’s “safety net.”

Page 14-1 *Edit last two paragraphs on page as follows:*

The use of an “equity lens” in planning means that decisions about the allocation of future resources should consciously consider the historic advantages or disadvantages that have affected residents, the efforts being made to authentically include residents who

have been historically excluded from planning processes, and the extent to which our decisions place unfair burdens on future generations. In this context, “equity” is fundamentally different than “equality.” Equality means that each individual is given the same resources or opportunities. Equity recognizes that each person has different circumstances and allocates resources proportionally to achieve fairer and more equal outcomes.

“Opportunity for all” is a guiding principle of General Plan 2040—it is intended to inform and shape future planning, decision-making, and resource allocation. In particular, decisions about land use, transportation, housing, parks, and public services must consider their potential impacts on under-served individuals and groups, including how they may mitigate displacement and contribute to reducing inequity. City policies for housing and other services should be holistic and systems-based, with resources focused in ways that build wealth and stability and address the most critical community needs.

Page 14-7 *Under heading “Planning for a Diverse Community”, include the following new first paragraph:*

Planning for a Diverse Community

Diversity refers to the range of human differences in our community, including race, ethnicity, national origin, gender, gender identity, sexual orientation, age, income, physical ability, and mental health. It is also a reflection of one’s life experiences, from citizenship level to veteran status. Planning for a diverse community recognizes the continuum of life and changing circumstances over time. For instance, Census data may indicate that a fixed percentage of San Rafael’s residents have a physical disability. A much larger percentage of residents may experience a period in life when they are physically impaired, either temporarily or through the natural aging process. The City recognizes that diversity reflects a spectrum. It strives to use language that properly humanizes all people regardless of their circumstance and implement policies that are responsive to different human needs and conditions.

Appendix A *Page 2, add new sentence to end of paragraph on metrics as follows:*

When developing metrics, it is important to consider their context and intent so that they are meaningful and can inform policy choices in a constructive way.

EDITS TO DOWNTOWN PRECISE PLAN MADE AFTER JULY 19, 2021

Page 233, edit second column, last sentence as follows:

The Precise Plan is an opportunity to examine and attempt to resolve these issues in ways that benefit everyone.

Page 31, edit first column, first bulleted item as follows:

Challenge 6 Rising homelessness and **displacement** ~~concerns about safety~~

- The Bay Area is facing a housing crisis. Downtown, as the County-wide center for social services, has a large number of unsheltered residents ~~that has affected the image of Downtown for many, and discouraged visitors.~~ There is an urgent need for permanent supportive housing, as well as measures to avoid displacement of lower-income residents.

Page 39, edit first column, Guiding Policy 2F as follows:

2F. Continue existing efforts and explore new "best practice" strategies to address homelessness in a holistic manner. ~~Initiate~~ Support public education programs, short-term measures to assist those in need, and ~~to build support for evidence-based, long-term solutions,~~ including additional permanent supportive housing.

Page 50, edit second column, second to last sentence as follows:

Downtown is a regional hub for a variety of social services, and a suitable location to test housing solutions with support services for its unsheltered population, as part of a comprehensive County-led approach to address homelessness.

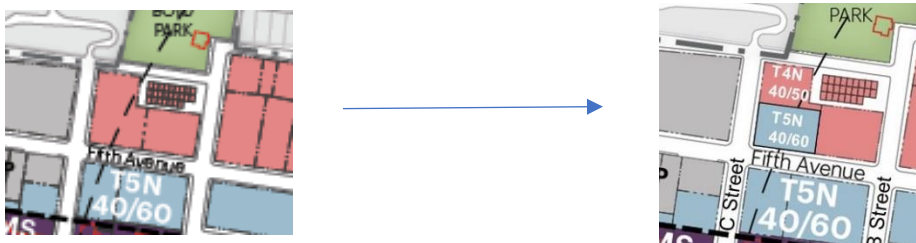
Page 51, edit first column, Guiding Policy 8G as follows:

8G ~~Develop strategies geared to comprehensively address~~ Work with the County of Marin and community partners to end homelessness, including additional extremely low income housing with ~~and~~ supportive services.

Page 51, edit second column, "Expected Outcomes" fifth bullet as follows:

- The City partners with the County and local organizations to proactively and compassionately address ~~takes initiative in addressing~~ homelessness in Downtown, and continues to coordinate ~~offer~~ supportive and social services.

Page 62-63, Page 65, and Page 248-249, edit regulating plan and height map as follows:



Page 189, first column, edit first paragraph as follows:

Since the Precise Plan uses height and form-based standards ~~and not Floor Area Ratio (FAR)~~ as a metric to measure intensity of development rather than density, projects seeking to apply a density bonus under ~~the~~ state density bonus law must calculate the number of units in a “base project” (based on the allowable zoning envelope) and then apply the percentage bonus can utilize the resultant FAR of the base zoning envelope defined in the Downtown Plan and Form-Based Code to calculate the additional number of units (and floor area) to be accommodated ~~in the bonus envelope prescribed by the Downtown Code~~. The City has developed administrative procedures (i.e not formally adopted) explaining how these calculations are made.

Page 223, edit as follows:

3A. ~~Ending limiting homelessness.~~ ~~Address issues associated with homelessness in Downtown to increase its attractiveness and perception of safety for many residents and visitors. Humanely and compassionately enforce loitering and vagrancy regulations, and Work with the County of Marin Health and Human Services, local service providers, housing advocates, businesses, and other stakeholder groups to~~ develop mutually beneficial solutions that increase shelter, transitional and permanent housing, and supportive services ~~for to assist~~ unsheltered residents. Develop specific programmatic measures through the 2023-2031 San Rafael Housing Element. The City of San Rafael is committed to the goal of ending homelessness and promoting access to programs and housing resources for those in need.

3B. ~~Develop a long-term Homelessness Prevention Plan and Strategies.~~ ~~Work with State and local housing advocates, social service providers, unsheltered residents, the Chamber of Commerce, and local businesses to develop a long-term plan to remove homelessness from Downtown and the City, aligned to best practice strategies such as Housing First and Built for Zero.~~

ATTACHMENT 7: CORRESPONDENCE

LETTER 1

July 20, 2021

Honorable Mayor Kate Colin and City Council members

City of San Rafael
1400 Fifth Avenue, room 203
San Rafael, CA 94901

Via email: barry.miller@cityofsanrafael.org; lindsay.lara@cityofsanrafael.org

PLEASE INCLUDE THIS 2-PAGE LETTER (plus 2 attachments) IN PUBLIC COMMENTS for the August 2, 2021, City Council meeting for the draft Downtown San Rafael Precise Plan

Honorable Mayor Kate Colin and City Council members:

The Downtown San Rafael Precise Plan proposes a zoning designation of T4MS-O 40/60 for the triangular shaped land area at the west end of Fourth Street, bordered by Ida Street to the East and Second Street to the South. This triangular area consists of 8 separate parcels with 7 separate owners.

The West End Center, the commercial shopping center where Yardbirds was previously located, is the largest land area in this triangle and includes 3 separate parcels with 3 different owners, with a total area estimated at more than 5 acres (see attached parcel map, #16, 17, and 21). This is where the advisory committee was envisioning a larger development to replace the shopping center when a zoning of T4MS-O 40/60 was recommended. However, this same zoning is recommended for the much smaller, remaining 5 parcels, west of the shopping center, where only 2 of those are under the same ownership for the IHOP. The idea that 8 separate parcels with 7 different owners could be merged into one development is unrealistic.

The Shell Station, located on the odd shaped lot at the point of the triangle, was recently rebuilt with a larger convenience store and a maximum allowed height of 36 feet (see parcel #26 on attached parcel map). The Planning Commission considered whether the rebuild of the gas station was an appropriate use of this site and decided to allow the replacement of the station. I doubt whether anything will change on this site for many years, so a zoning of T4N 30/40 is more appropriate given the odd shape of the lot and current approved use.

Adjacent to the Shell Station is the International House of Pancakes (IHOP) consisting of 2 parcels under the same ownership, parcel #03 and #04 on the attached parcel map. These parcels are small with a combined estimated area of 13,000 – 15,000 sq'. Parcels #05 and #06 are under separate ownership with small 1-story commercial buildings. Half of parcel #06

consists of dedicated easements. A more appropriate zoning for parcels #03 - #06 would be T4MS-O 40/50, the same zoning recommended for lots directly opposite on Fourth Street

The proposed zoning assumes one ownership of the entire 8 parcels when realistically, only the 3 parcels for the prior Yardbirds center have the potential for being developed as a single project. Where else in the downtown does the zoning assume parcels under separate ownership will be merged?

To summarize, I am proposing changes to the zoning for the Shell Station (lot #26) to T4N 30/40, parcels 03, 04, 05 and 06 changed to T4MS-O, 40/50, and the largest combined parcels (#16, 17, and 21) would be zoned as recommended, T4MS-O 40/60.

This would be a more nuanced and attractive entrance to the western end of Downtown San Rafael and be more compatible with surrounding zoning and existing development patterns in the area, including the low-density residential across the street on Second Street and the proposed zoning on the north side of Fourth (see attached Zoning Map).

It's one thing to envision development on large expanses of undeveloped land but this land has been subdivided and developed and planning for future development needs to take into account the current size and shape of the individual lots in order to realistically envision what is possible and preferable.

I believe the committee was primarily focused on the combined 5 acre area where the existing small shopping center is located and didn't look at the area in detail. I am asking you to look at this area in more detail and consider a more realistic approach.

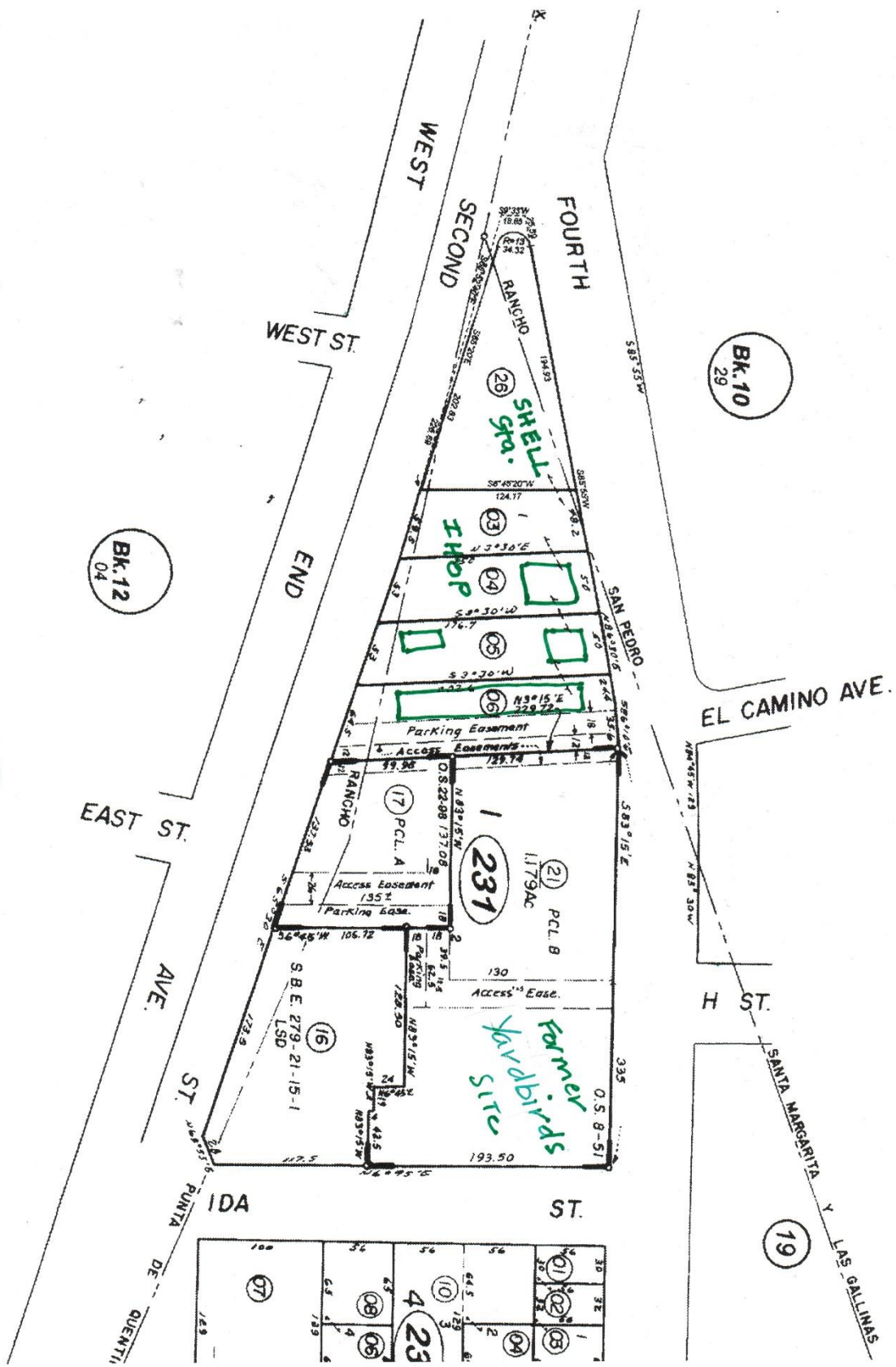
Thank you for your consideration of these comments.

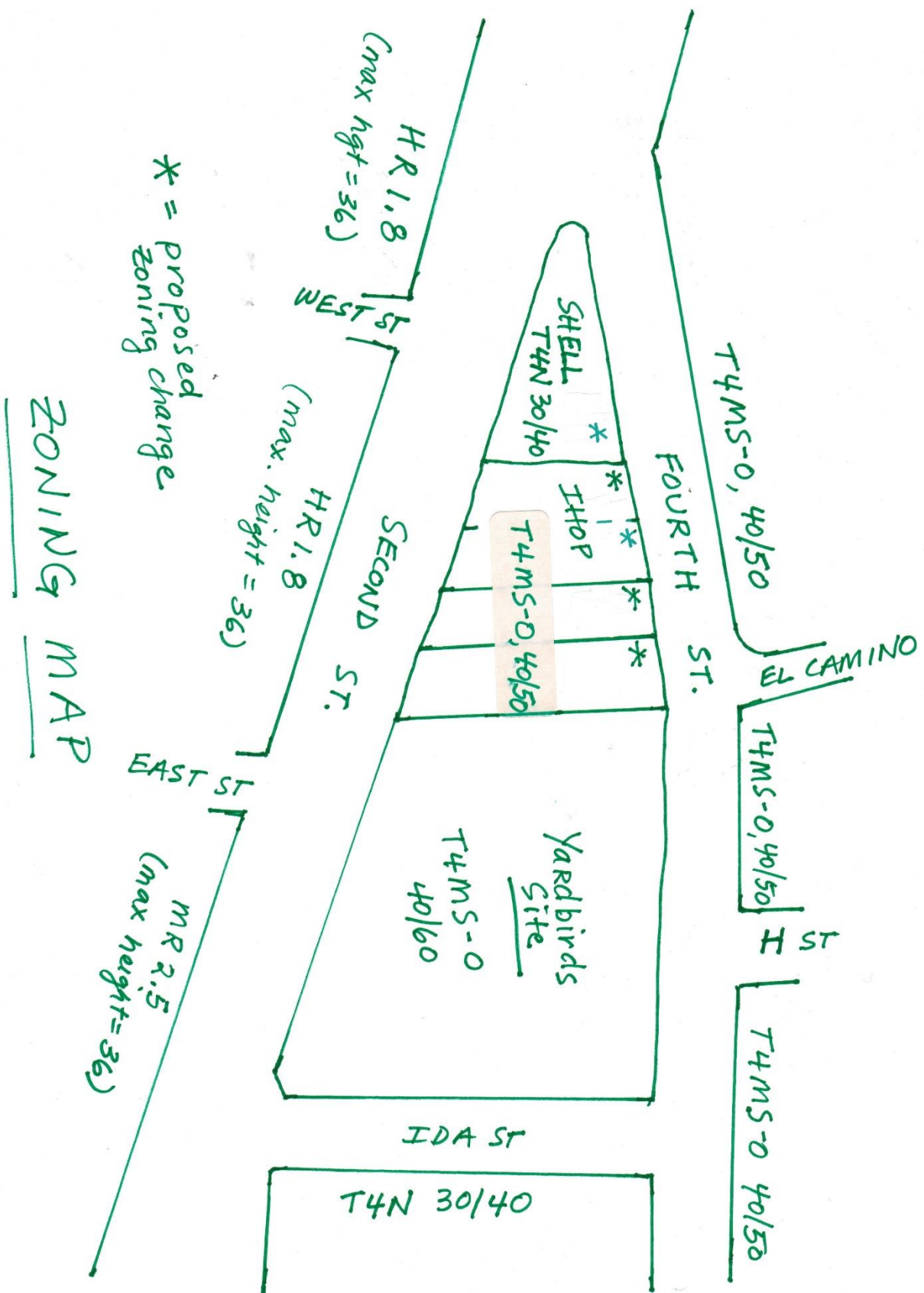
Sincerely,

Victoria DeWitt
West End neighborhood resident

att: Parcel Map
Zoning Map

PARCEL MAP





ZONING MAP

LETTER 2

SAN RAFAEL HERITAGE

P.O. BOX 150665, SAN RAFAEL, CA 94915



July 28, 2021

San Rafael Mayor and City Council

Barry Miller, General Plan 2040, Consulting Planner

Lindsay Lara, City Clerk

RE: San Rafael city Council Public Hearing August 2, 2021
GP 2040, Downtown Precise Plan

With our focus on historic preservation, San Rafael Heritage (SRH) will continue to work on the Downtown Precise Plan and Historic Resources Inventory Summary. We appreciate working with city staff and consultants on this process and know that our pleasant working relationship will continue. It is important for this project to be successful for our city and all its citizens.

Our organization was founded in 2015 when major changes were proposed for the Northwestern Pacific Depot (Depot). San Rafael Heritage continues the important mission of preservation, an example of which is the saving of the Falkirk estate from demolition in the 1970s. The city now treasures this resource as an important asset to the community. We consider the Depot such an asset and know that it will be treasured by future generations.

We champion local landmark status; maintaining that, as stated on page 225 (4.5-5) of the Draft EIR “The fact that a resource is not listed ... does not preclude a lead agency from determining that the resource may be an historical resource ...”

It is important to maintain for consistency, the high standards of the National Park Service in conformance with the Secretary of the Interior’s Standards (SIS). The SIS is referenced multiple times in the GP2040; however as noted above, the California Historical Building Code (CHBC) allows the city to designate a resource as a local landmark.

The CHBC allows for any level of government to determine which historic resources are important, allowing for local landmark designation whether or not qualifying on a state or federal level. See page 227 (4.5-7) of the Draft EIR.

The Depot’s ultimate disposition and restoration is a top priority for SRH. It is instantly recognizable; it radiates the greatness of the railroad era that built San Rafael into the city it is today. We consider the Depot as a qualifying local landmark and envision this historic structure as a foundation for a downtown historic district.

The Depot could be sensitively restored/renovated for adaptive reuse in conformance with the SIS; this will improve the Depot’s rating as a resource. In addition, regardless of the Golden Gate Transportation District plans for the San Rafael Transit Center, we expect to be involved on the team in the restoration and adaptive reuse of this building.

We look forward to working with staff to improve the existing documents, to improve its quality over time and will continue to be a resource, working as collaborators in future developments that relate to historic resources and districts. We share the same goals with the City Council of a grander mission for San Rafael. It is critical to have strong economic growth in San Rafael for an attractive, vital and exciting place to live and work. Our mission is to be partners, working with the rebirth and renaissance of Downtown San Rafael.

Best Regards,

A handwritten signature in blue ink that reads "Linzy Klumpp". The signature is written in a cursive style and is set against a light yellow rectangular background.

Linzy Klumpp

President, San Rafael Heritage

CC: San Rafael Heritage Steering Committee



Agenda Item No: 7.b
Meeting Date: August 2, 2021

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY/LIBRARY AND RECREATION

Prepared by: Lisa Goldfien, Asst. City Attorney,
Nira Doherty, Deputy City Attorney
Susan Andrade-Wax, Library and Recreation Director

City Manager Approval: AS

TOPIC: AMENDMENTS TO THE SAN RAFAEL MUNICIPAL CODE REGARDING PARKS AND RECREATION, PARADES, ASSEMBLIES, EXPRESSIVE ACTIVITY AND OTHER ACTIVITY ON PUBLIC PROPERTY

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM "OPEN SPACE" TO "PUBLIC PARKS, PROPERTY, AND OPEN SPACE"; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

RECOMMENDATION:
Pass the ordinance to print.

BACKGROUND:
The proposed ordinance is intended to update and facilitate the use of the San Rafael Municipal Code (SRMC) by making minor amendments to and making certain organizational changes, primarily to gather together in one place many of the City's regulations concerning the use of public property.

The ordinance would rename Title 19 of the Municipal Code from "Open Space" to "Public Parks, Property, and Open Space," and under that Title, would place the following sets of regulations:

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

- A new Chapter 19.20, entitled “Parks and Recreation”, consisting of updated and significantly streamlined parks and recreation regulations. The ordinance would repeal the existing parks and recreation regulations, which are currently located in Chapter 8.10 of Title 8-Morals and Conduct.
- A new Chapter 19.30, entitled “Assemblies and Parades in Public Streets and Rights-of-Way”, moving those regulations from their current location in Chapter 5.70 of Title 5-Traffic Regulations, and amending them to remove inconsistencies with the parks regulations in the new Chapter 19.20 and to remove references to expressive activities which would now be regulated under Chapter 19.40.
- A new Chapter 19.40, entitled “Expressive Activity in Public Places,” to update the City’s current regulations of speech and other expressive activities that are protected by the First Amendment.

The ordinance would also add new section 5.60.054 to Chapter 5.60-Parking Regulations, to add to the Municipal Code the prohibition of camping in City parking garages, as included in the urgency ordinance adopted at the July 6 City Council meeting.

ANALYSIS:

The proposed ordinance would clarify and streamline the regulation of and permitting requirements for various activities in or on City property. Specifically, the proposed ordinance would establish the following permitting requirements for various activities under the different chapters of the San Rafael Municipal Code amended as a part of this ordinance:

Permit Requirements

1. **Parks and Recreation Permits (SRMC Chapter 19.20)**
Use of City Recreation Facilities, Pools, Buildings, Fields, Exclusive Use of Parks for Parties
2. **Assembly and Parade Permits (SRMC Chapter 19.30)**
All assemblies, marches, processions and parades in the public rights-of-way which do NOT involve expressive activity
3. **Expressive Activity Permits (SRMC Chapter 19.40)**
- Events involving more than 150 people or 75 people in plaza – permit required
- Events involving less than 150 people or less than 75 people in the plaza – **no** permit required
4. **Spontaneous Events (SRMC Chapter 19.40)**
No permit required

Each of these chapters and the associated permit requirements are discussed in greater detail below.

Repeal of Chapter 8.10—Parks and Recreation, and Adoption of New Chapter 19.20--Parks and Recreation:

San Rafael Municipal Code Chapter 8.10 addresses rules and regulations pertaining to activities that take place in City of San Rafael-owned, -managed or -controlled parks, recreational facilities, plazas,

outdoor public areas, greenbelts and other public places or portions thereof, together with any accompanying parking lot or staging area, for the recreational use and/or enjoyment of the public. In order to proactively manage the City's parks and other public places, to ensure their safe usage and enjoyment by residents, and to meet the needs of the changing community, a periodic review of the regulations is necessary. The last update to Chapter 8.10 was approved by the City Council on January 6, 2002 and changed circumstances and changing best practices make an update to these regulations timely.

The proposed ordinance would repeal Chapter 8.10—Parks and Recreation, and would amend and move the regulations to Title 19 as new Chapter 19.20. New Chapter 19.20 streamlines the current regulations, and includes the following major changes:

- Vests all permit and decision-making authority under the chapter to the “City Manager,” defined for purposes of Chapter 19.20 to mean “the City Manager or their designee”. In view of significant changes to the City's organizational structure that have occurred since the last update, including the elimination of the San Rafael Redevelopment Agency, and the consolidation of the Department of Community Services and the Library into the new Library and Recreation Department, the proposed ordinance eliminates Chapter 8.10's references to these obsolete departments/entities, and to their directors. Vesting authority in the City Manager or their designee adds flexibility in administering the parks and recreation rules and regulations. For example, this change would permit the City Manager to delegate administrative responsibility under the chapter to the Library and Recreation Department or the Department of Public Works, and at the same time, in circumstances requiring enforcement, to delegate the enforcement responsibility to the Police Department, Fire Department, Parking Services and/or Code Enforcement as appropriate.
- Delegates to the City Manager the authority to formulate administrative rules, policies, and regulations for implementation of the Ordinance. Chapter 8.10's requirement for City Council approval of all such rules, policies, and regulations has been eliminated to provide staff with more agility in responding to changing circumstances and issues.
- Establishes clarified criteria and procedures for issuance of permits. The new Chapter 19.20 requires permits for exclusive uses and large gatherings of any park, building or portion thereof and establishes clear and concise permit application requirements and conditions of approval for said permits. The new chapter also sets forth the bases upon which a permit application may be denied.

Repeal of Chapter 5.70—Meetings, Assemblies and Parades in Public Places, and Adoption of New Chapter 19.30 – Assemblies and Parades in Public Streets or Rights-of-Way:

The proposed ordinance would repeal current Chapter 5.70—Meetings, Assemblies and Parades in Public Places, currently part of Title 5 dealing with traffic regulations, and would amend and move the regulations to Title 19 as new Chapter 19.30. New Chapter 19.30 includes the following changes:

- Requires that an event permit be obtained for parades, processions, marches and assemblies conducted in the City right-of-way.
- Removes references to a permit being required for “meetings.”
- Clarifies that event permits issued under Chapter 19.30 do not include expressive activities and expressive activity permits which are regulated under new Chapter 19.40.

- Removes broad and vague permit finding requirements and replaces those findings with objective criteria ensuring that the event provides sufficient security and/or safety mechanisms and protocols in the discretion of the Chief of Police or their designee.
- Requires permittees to hold the City harmless and provide insurance for their event.
- Establishes permit application and review requirements and establishes grounds for denial or revocation of a permit.

Adoption of New Chapter 19.40 – Expressive Activity in Public Places

The ordinance would add a new Chapter 19.40 to Title 19 to protect First Amendment rights as required by law, by enabling people to peaceably assemble in certain public places while establishing the least restrictive time, place and manner regulations to ensure continued safety for the public. To this end, Chapter 19.40 does the following:

- Adds a definition of expressive activity. Expressive Activity means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive activity includes, but is not limited to, public oratory and the distribution of literature.
- Requires a permit for large expressive activities but does not require a permit for small expressive activities. Expressive activity permits must be obtained when the event is on City property and involves 100 or more people or if the event is at the San Rafael City Plaza and involves 50 or more people.
- Provides that spontaneous events occasioned by news or recent public affairs do not require an expressive activity permit as long as they are conducted at City Hall, in San Rafael Plaza or on City sidewalks and so long as the events don't impede traffic. In addition, use of the full public right of way may be allowable, but only if authorized by the Chief of Police and City Manager in the interest of community health and welfare.
- Establishes expressive activity permit application and review requirements and establishes grounds for denial or revocation of an expressive activity permit.
- Prohibits people from interfering with expressive activities which are permitted under Chapter 19.40.
- Makes violation of Chapter 19.40 an infraction subject to enforcement.

In summary, the proposed ordinance updates and streamlines the Municipal Code, enhances safety for users of parks, recreational facilities and other public places, and provides protection and sustainability for the City. If approved, the proposed changes will be brought to the City Council for final adoption at the meeting on August 16, 2021.

FISCAL IMPACT:

There will be no immediate fiscal impact associated with the adoption of the ordinance; it will streamline, but not substantially change current staff duties.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Hold a public hearing to consider the ordinance and pass it to print.
2. Make minor modifications to the ordinance and pass it to print.
3. Provide direction to staff to review and return with a modified ordinance
4. Take no action.

RECOMMENDED ACTION:

Pass to print an ordinance Amending the San Rafael Municipal Code to Change the Name of Title 19 from “Open Space” to “Public Parks, Property, and Open Space”; to Repeal Chapter 8.10 (Parks and Recreation) and Add a New Chapter 19.20 (Parks And Recreation) to Title 19; to Repeal Chapter 5.70 (Meetings Assemblies and Parades in Public Places) of Title 5 and Add a New Chapter 19.30 (Assemblies and Parades in Public Streets and Rights-of-Way) to Title 19; to Add New Chapter 19.40 (Expressive Activities in Public Places) to Title 19; to Add New Section 5.60.054 to Chapter 5.60 (Parking Regulations); and Finding the Ordinance Exempt from the California Environmental Quality Act.

ATTACHMENTS:

1. Ordinance with attached Exhibits A, B, and C
2. Public Hearing Notice

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE NAME OF TITLE 19 FROM “OPEN SPACE” TO “PUBLIC PARKS, PROPERTY, AND OPEN SPACE”; TO REPEAL CHAPTER 8.10 (PARKS AND RECREATION) AND ADD A NEW CHAPTER 19.20 (PARKS AND RECREATION) TO TITLE 19; TO REPEAL CHAPTER 5.70 (MEETINGS ASSEMBLIES AND PARADES IN PUBLIC PLACES) OF TITLE 5 AND ADD A NEW CHAPTER 19.30 (ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY) TO TITLE 19; TO ADD NEW CHAPTER 19.40 (EXPRESSIVE ACTIVITIES IN PUBLIC PLACES) TO TITLE 19; TO ADD NEW SECTION 5.60.054 TO CHAPTER 5.60 (PARKING REGULATIONS); AND FINDING THE ORDINANCE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of San Rafael does ordain as follows:

Section 1. The City Council of the City of San Rafael hereby finds and declares as follows:

- A. Chapter 8.10 of the San Rafael Municipal Code entitled “Parks and Recreation” was last amended by Ordinance No. 1795 in 2002, and to proactively manage the City's parks and other public places, to ensure their safe usage and enjoyment by residents, and to meet the needs of the changing community, a periodic review and update of the regulations is necessary.
- B. It will facilitate the transparency and ease of use of the San Rafael Municipal Code to move the regulations concerning activities on public property, including public parks and recreation, parades and assemblies, and expressive activities to the same part of the Code that regulates public open space.
- C. The City Council desires to clarify that camping is prohibited in public parking garages.

Section 2: Amendment to the Title of Title 19 – Open Space – of the San Rafael Municipal Code

The Title of Title 19 – Open Space, of the San Rafael Municipal Code is hereby amended to read as follows:

Title 19 – PUBLIC PARKS, PROPERTY, AND OPEN SPACE

Section 3: Repeal of Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code

Chapter 8.10 – Parks and Recreation, of Title 8 – Morals and Conduct, of the San Rafael Municipal Code is hereby repealed in its entirety.

Section 4: Adoption of Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code

New Chapter 19.20 – Parks and Recreation, of Title 19 – Public Parks, Property, and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 5: Repeal of Chapter 5.70 – Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code

Chapter 5.70 –Meetings, Assemblies and Parades in Public Places, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code is hereby repealed in its entirety.

Section 6: Adoption of Chapter 19.30 -- Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code

A new Chapter 19.30 – Assemblies and Parades in Public Streets and Rights-of-Way, of Title 19 – Public Parks, Property and Open Space, is hereby added to the San Rafael Municipal Code to read as set forth in Exhibit B, attached hereto and incorporated herein by this reference.

Section 7: Adoption of Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code

A new Chapter 19.40 – Expressive Activity in Public Places, of Title 19 – Public Parks, Property, and Open Space, of the San Rafael Municipal Code is hereby adopted to read as set forth in Exhibit C, attached hereto and incorporated herein by this reference.

Section 8: Adoption of Section 5.60.054 – Overnight Camping in Parking Garages Prohibited, of Chapter 5.60 -- Parking Regulations, of Title 5 – Traffic Regulations, of the San Rafael Municipal Code

A new section 5.60.054 is hereby added to Chapter 5.60 – Parking Regulations, of Title 5 –Traffic Regulations, of the San Rafael Municipal Code, to read as follows:

5.60.054 – Overnight Parking in Parking Garages Prohibited.

No person shall camp, or use or store camp facilities or camp paraphernalia, as defined in section 19.20.010 of this code, in or on the premises of any parking garage owned or operated by the City of San Rafael.

Section 9. Severability. If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 10. Compliance with CEQA. The City Council hereby finds that the action to adopt this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

Section 11. Publication; Effective Date. This ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2021 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers

NOES: Councilmembers

ABSENT: Councilmembers

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the _____ day of _____, 2021.

LINDSAY LARA, City Clerk

EXHIBIT A
TITLE 19
CHAPTER 19.20
PARKS AND RECREATION

Chapter 19.20 - PARKS AND RECREATION

19.20.010 - Purpose and Intent

The purpose and intent of this chapter is to provide rules and regulations respecting the use of City parks and recreation facilities which are necessary to protect the public health, safety and general welfare of the residents of the City and users of parks and recreation facilities, including prohibiting smoking in park and recreational facilities, and which are necessary to ensure that the parks and recreation facilities are maintained in a manner consistent with the broadest use thereof by the residents of the City. Unless otherwise stated, the provisions of this chapter apply to any City park and recreation facility.

19.20.020 - Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. "Amplified sound" means speech, sounds, or music projected or transmitted by electronic equipment including amplifiers, loudspeakers, microphones, bull horns or similar devices or combinations of devices which are intended to increase the volume, range, distance or intensity of speech, sounds, or music and are powered by electricity, battery or combustible fuel.
- B. "Buildings" means and includes those buildings, structures, or any portion thereof, within or on any City owned land, including buildings and structures within Parks and on Recreation Facilities. "Buildings" include "Cultural and Community Centers."
- C. "Camp" or "Camping" means occupying camp facilities, using camp paraphernalia, or residing in or using a public space for living accommodation purposes, including sleeping and making preparations to sleep (including the laying down of bedding for the purpose of sleeping). "Camp" or "camping" shall also mean the conduct of these activities in a vehicle. "Camp" or "camping" shall not mean occupying camp facilities or using camp paraphernalia for temporary picnicking, recreating, or resting purposes. "Camp paraphernalia" includes, but is not limited to, tents, tarpaulins, cots, beds, mattresses, sleeping bags, hammocks, non-city designated cooking facilities and similar equipment.
- D. "City Manager" means City Manager or their designee. For example, in some circumstances the administrative responsibility under this chapter may be delegated to the Library and Recreation Department or the Department of Public Works, and in circumstances requiring enforcement, that responsibility may be delegated to the Police Department, Fire Department, Parking Services or Code Enforcement.
- E. "Cultural and Community Centers" means and includes City-owned properties in which classes, activities, events, meetings, seminars, banquets, weddings, fundraisers,

historical tours and activities, theater, gardening, and other similar activities may take place.

- F. "Expressive Activity" means conduct, the sole or principal object of which is the expression, dissemination or communication by verbal, visual, literary or auditory means of opinion, views or ideas. Expressive Activity includes, but is not limited to, public oratory and the distribution of literature.
- G. "Facility amenities" include, but are not limited to, playground and exercise equipment, park or public place benches, picnic tables, public art, public buildings, swimming pools, walls, fences, gates, trees, monuments, signs, buildings, roofs, playing surfaces, railings, backstops, parking lots, trails, or tables in a park or public place, or upon any park property.
- H. "Open space property" means any area described in San Rafael Municipal Code Section 19.10.020.
- I. "Park(s)" means and includes every park, plaza, outdoor public area, trails, open space property, greenbelt, or portion thereof together with any accompanying parking lot or staging area, which is owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- J. "Permit" means a permit issued by the City of San Rafael which permit shall contain the following information: the name of person or organization to whom the permit is issued; the name of the park and/or recreation facility and/or the identification of the activity and designated area where such activity may be conducted; the effective date(s) and times of the permitted activity; and such other administrative information as may be necessary.
- K. "Person" means an individual, association (regardless of incorporation status), organization, partnership, firm, corporation, or company.
- L. "Recreation Facility" means fields, courts, pools, amphitheaters, areas specifically designed for organized activities such as, but not limited to, baseball, softball, soccer, tennis, basketball, and organized group gatherings which are owned, managed, or controlled by the City of San Rafael for the recreational use and/or enjoyment of the public.
- M. "Refuse" means any garbage, trash, bottles, cans, papers, ashes, food and vegetable material, rubbish, industrial wastes, animal waste, grass clippings, yard clippings, tree or shrub pruning or any other discarded substance, matter or thing, whether liquid or solid.
- N. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- O. "Vehicle" means any wheeled conveyance, whether motor-powered, animal-drawn, or self-propelled, and shall include any trailer in tow of any size, kind or description. For purposes of this chapter, a vehicle does not include a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, used by a sidewalk vendor engaging in sidewalk vending with a permit issued for such activity.

19.20.030 - Permit Required for Exclusive Uses and Large Gatherings.

- A. A person wanting either (1) exclusive use of any Park, Building or portion thereof, or (2) use of a Park, Building or portion thereof for gatherings of 25 or more persons, must apply for and obtain a permit for such use, activity or event, from the City Manager. It is unlawful for any person to engage in any use of any Park, Building or portion thereof, for which a permit is required, without obtaining such a permit.
- B. Permits issued pursuant to this section shall entitle permittees, for the duration of said permit, to exclusive use of the portion of the Park or Building specified in said permit.
- C. The fees for issuance of permits issued pursuant to this section shall be set forth by separate resolution of the City Council.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities. Permit requirements for Expressive Activities are set forth in Chapter 19.30 of this Code.

19.20.040 - Permit Application and Conditions of Approval

- A. Permit Regulations. All applications for permits required by the provisions of this chapter shall be made to the City Manager on such forms provided and shall contain such information as the City Manager shall deem appropriate. The City Manager shall adopt regulations establishing permit application procedures which regulations may be amended from time to time.
- B. Permit Fees. Applications for permits required under the provisions of this chapter shall be accompanied by permit fees set forth by separate resolution of the City Council.
- C. Conditions of Approval. Permits issued under the provisions of this chapter are subject to such reasonable conditions as the City Manager or designee may determine necessary to coordinate multiple uses of public property, assure preservation of public property and public places, prevent dangerous, unlawful or impermissible uses, protect the safety of persons and property and to control vehicular and pedestrian traffic in and around the park. These conditions may include conditions relating to waste management and restoration of the park, environmental protection, conditions to ensure safe accommodation of an event's pedestrian and vehicular traffic, and reasonable designation of alternate sites, times, dates, or modes for exercising expressive activity. Such conditions may include, but shall not be limited to, the following:
 - 1. Limitations upon the times during which the proposed use will be permitted.
 - 2. Limitations upon the locations at which the use will be permitted.
 - 3. Limitations upon the number of people that will be permitted to participate in a use at a given location.
 - 4. Limitations upon the type of equipment allowed and the manner in which it is utilized, including prohibitions on amplified sound.

5. Requirement that the applicant furnishes private patrol or security where the nature of the use will impose undue burdens on the police services of the City.
6. Requirement that the applicant provide temporary sanitary facilities, trash containers, etc.
7. Requirement that the applicant post fees, deposits or other security to cover extraordinary costs which may be incurred by the City as a result of the proposed use.

19.20.050 - Criteria for Issuance of Permits.

The City Manager shall issue a permit pursuant to the provisions of this chapter unless the City Manager determines the application meets any of the following criteria:

- A. The information contained in the application, or supplemental information provided, is not complete or is materially false or misleading.
- B. The applicant has failed to submit a complete application, supply satisfactory evidence of insurance, or has not remitted the fees or deposits as required by this chapter.
- C. The Park, Building or portion thereof is unavailable for the period for which the permit is requested.
- D. The area proposed for the applicant's use or activity could not physically accommodate the number of participants expected to participate in a safe manner.
- E. The proposed use, activity or event is not compatible with the uses established for the requested park, building or portion thereof, in that it unreasonably interferes with use of the park by others.
- F. The proposed use has a realistic potential to create a threat to the public health, safety or welfare, or to damage public property, which may not be adequately remedied by reasonable traffic control and other safety measures. However, this provision does not authorize the denial of a permit because of a real or perceived need to protect persons engaging in Expressive Activity or property from the conduct of others, if reasonable permit conditions can be imposed to allow for adequate protection of such participants with the number of police officers available to police such proposed use.
- G. The proposed use would require the diversion of public safety or other City employees from their normal duties so as to unreasonably reduce adequate levels of service to any other portion of the City, or the event will adversely affect the City's ability to reasonably perform municipal functions or furnish City services.
- H. The proposed use, event or activity will have a significant adverse environmental impact.
- I. The proposed use would be in conflict with applicable provisions of any federal, state and/or local law.

The City Manager's decision to issue or deny a permit pursuant to the provisions of this chapter shall be final and not subject to appeal.

19.20.060 - Permit holder responsibilities and obligations.

After a person obtains a permit, that permit holder must:

- A. Comply with all rules and regulations and all applicable City ordinances as though the same were incorporated into the permit.
- B. Comply with all conditions imposed by the permit.
- C. Inform all attendees of the conditions of the permit and the applicable rules and regulations.

19.20.070 – Use of Parks and Buildings.

A. Rules and Regulations Regarding Use.

- 1. The City Manager is vested with authority over and control of all Parks and Buildings for the purpose of causing to be corrected any condition which violates, or which would tend to cause or contribute to any violation of, the purpose and provisions of this chapter.
- 2. The City Manager may establish reasonable rules, policies, or regulations governing the use and enjoyment of any Park or Building in order to maximize the use and enjoyment of the Park or Building by the public in addition to those contained in this chapter, and no person shall disobey or violate same.

B. Hours. Except as provided in this subsection, Parks and Buildings are open for public use from sunrise until sunset. Except as provided in this subsection, no person shall enter, remain in, cross upon or use, any park, building or portion thereof, between sunset and sunrise.

1. Exceptions.

- a. At any time, the City Manager may exclude any person(s), whether or not such persons are permit holders, from parks, buildings, or portions thereof, where such exclusion is necessary to protect public property, the public health, safety or welfare or to preserve the public peace.
- b. Whenever any park, building or portion thereof, has been reserved for exclusive use of a permit holder, that area may be closed to all others not associated with that permit holder's exclusive use.
- c. A permit holder may use the Park, Building or portion thereof beyond regular hours if allowed under the permit holder's permit.
- d. Regardless of park and building hours restrictions, a person may use lighted parks, buildings, or portions thereof, under the conditions posted and as specifically designated by the City Manager. No person shall use any Park, Building, or portion thereof, in violation of such posted hours and conditions.

C. Dogs, pets and other animals.

1. No person shall bring or allow a dog, pet, or other animal owned or maintained by them into any park, building or portion thereof, unless such dog or pet is on a leash and under control at all times.
2. Any person having custody or control of a dog, pet, or other animal in any park, building, or portion thereof, shall be responsible for any damage caused by such dog, pet, or other animal even if on leash and under control, including but not limited to the removal of feces.
3. The provisions of subsection A 1 above shall not apply to service dogs if laws or regulations authorize service dogs in areas otherwise prohibited by this chapter.
4. No person shall abandon, hunt, capture, harm, or feed any animal in any park or building.

D. Alcohol.

1. No person shall either consume any alcoholic beverage or possess any alcoholic beverage open container in any park, building or any parking lots associated therewith.
2. A person may possess or consume alcoholic beverages in a park, building or portion thereof if the person is associated with or rightfully attending a use, activity, or event for which a permit has been issued and the permit allows alcohol use.
3. A person, whether a permit holder or not, may not furnish or sell alcoholic beverages in parks, buildings or portions thereof, unless that person:
 - a. Complies with all applicable rules and regulations of the alcohol beverage control board.
 - b. Obtains the appropriate license from the alcohol beverage control board.
 - c. Obtains a permit from the City Manager permitting the use and consumption of alcoholic beverages.
4. No person, whether a permit holder or not, shall enter or remain in any park, building or portion thereof, while under the influence of an alcoholic beverage, a drug of any type or a combination thereof.

E. Vehicles in parks.

1. Except for police officers and City employees acting in the course and scope of their employment, no person shall operate any motorized vehicle into any park except for on the streets, highways, and designated parking areas for a park.

2. All provisions of the Vehicle Code of the State of California in regard to equipment and operation of vehicles shall apply to all parks or portions thereof.
3. All persons in a park or portion thereof shall obey all police officers and City employees authorized and instructed to direct traffic in any park or portion thereof in accordance with the provisions of these regulations and such supplementary regulations as may be issued by the City Manager.
4. All persons in any park or portion thereof, shall carefully observe all traffic signs indicating speed, direction, caution, stopping or parking, and all other signs posted for proper control and to safeguard life and property.
5. No person shall operate or use any bicycle, scooter, skateboard or roller/in-line skates, in any park except upon paved park roads, or upon pathways and other areas which have been specifically designated for such use.
6. No person shall park any vehicle in any park except in an established or designated parking area, and such use shall be in accordance with the posted directions or with the instructions of a duly authorized attendant.
7. A person shall be permitted to wheel or push, not ride, a bicycle by hand over any grassy area or on any paved area reserved for pedestrian use in any park.
8. No person shall use or permit use of a skateboard or scooter, in a manner that results in two or more persons being carried on such scooter or skateboard, nor use a bicycle to carry two or more persons unless the bicycle is specifically designed to carry such additional persons or attached with a trailer designed to carry persons.
9. No person shall leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
10. No person shall leave a bicycle, scooter, skateboard or roller/in-line skates lying on the ground, sidewalk or pavement, or set against trees, or in any walkway, path or paved area designed for pedestrians.

F. Refuse and pollution. Pursuant to SRMC 19.12.034, no person shall throw or deposit any refuse, rubbish, garbage, debris, paper, glass, dirt, dust animal or vegetable matter, cans, sweepings or other matters of similar nature in or upon any Park or Building except in authorized public receptacles.

19.20.080 - Prohibited activities.

A. Amplified Sound. No person shall use or create any amplified sound in any Park, Building or portion thereof where such noise violates the provisions of SRMC Chapter 8.13.

B. Fires.

1. No person shall build, kindle or light a fire in any park, for any purpose, except for a fire maintained in a City-owned and designated park fire pit or park barbecue.

2. No person shall leave an area where a fire has been kindled or maintained until the fire has been extinguished and is cold to the touch.
3. No person shall possess or ignite any fireworks, as defined in Health and Safety Code section 12511, in any park. This prohibition includes both “dangerous fireworks” as defined in Health and Safety Code section 12505 and “safe and sane fireworks” as defined in Health and Safety Code section 12529.
4. No person shall leave unattended any lit cigar, cigarette, match or other flammable article.

C. Camping.

1. No person shall camp, in any park, building or portion thereof, including the parking lot of any such area.
2. No person shall use or store camp facilities or camp paraphernalia in any park, building, or portion thereof, including the parking lot of any such area.
3. Nothing in this section shall be deemed to prohibit camping on all public property, including parks, when there is no alternative shelter available to the person camping; provided that the City Manager may nevertheless absolutely prohibit camping at any time in one or more specific parks where such prohibition is determined to be a threat to the public, health, safety, or welfare.

D. Guns and Dangerous Instruments. No person, except those persons listed in California Penal Code Section 12031(b) and 12031(c), shall have in their possession in any park, building or portion thereof, any dangerous weapon, bow and arrows, pellet or air gun, slingshot, crossbow, firearm, or destructive device as that term is defined in Section 12301 of the Penal Code.

E. Swimming and boats. No person shall swim, wade, float, dive or otherwise enter any fountain, pond, lake, stream or other water feature, natural or man-made, in any Park or Building except in those areas so designated by City for such swimming, wading, floating or diving.

F. Golfing. No person in a park, building or portion thereof, shall golf, including but not limited to chipping, putting, driving or otherwise practicing golf.

G. Commercial Activities. No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, article, or anything whatever, nor station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing, in any park, building or portion thereof, except by permit issued by the City Manager and subject to all other provisions of this code. This subsection shall not apply to City concessionaires or to persons acting under a lease, license or permit issued by the City.

H. Goods or services—Exhibitions, private lessons and classes. No person in a park, building, or portion thereof, shall: (1) sell any goods or services; (2) conduct or maintain any show, performance, concert, place of amusement or exhibition; or (3) conduct private lessons or classes unless such person has received the prior written permission of the City Manager or other City department charged with authorizing such activities.

- I. Advertising. No person shall place, post, paste, glue or otherwise affix, distribute or erect any handbill, circular, pamphlet, sign, placard, inscription or advertisement to any tree, fence, shrub, stick or structure in any park, building, or portion thereof.
- J. Smoking. Pursuant to section 9.04.050 of this code, no person shall smoke in any Park or Building.
- K. Gambling. No person shall play or bet at or against any game which is played, conducted, dealt or carried on for money, chips, shell, credit, or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming, or play any game prohibited by any city ordinance or state law, in any park, building or portion thereof.
- L. Motor driven cycles, model vehicles and planes. No person shall operate, transport or maintain any motor driven cycle, motorcycle, motorized bicycle, moped, or shared mobility device as the same are defined in the Vehicle Code or determined in the reasonable discretion of the Chief of Police or their designee, within any park, building, or portion thereof, except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager. No person shall operate any airborne, waterborne, land borne model or remote-controlled plane, any rocket or missile, or any vessel or vehicle, whether such plane, rocket, missile, drone, vessel or vehicle uses an internal combustion engine or is propelled/operated otherwise, within any park, building or portion thereof except in those areas as may be specifically designated for such purpose or with the written permission of the City Manager.
- M. Special Amusement Equipment. No person shall use construct or use any special amusement equipment in any park unless authorized under terms of a permit issued by the City Manager. For the purposes of this provision, "special amusement equipment" shall mean the use of any non-personal equipment that requires the use of running water, generators, or connection to park electrical utilities to use or operate, or requires the erection of any permanent or temporary structure over 6 feet tall, and shall specifically include moon bounces or any inflatable bounce houses, climbing walls, carousels, dunk tanks, ball crawls, pony rides, slip and slides. Permits issued for such uses shall require indemnification of the City, and insurance naming the City as an additional insured.
- N. Interference with Permitted Exclusive Use. No person shall interfere with an exclusive use permitted under this chapter, and each must immediately vacate that portion of any park or building that has been reserved for exclusive use by another person upon being presented with a permit obtained pursuant to this chapter.
- O. No person shall mark, deface, injure, tamper with, displace or remove, any bridges, tables, benches, fireplaces, railings, paving, water lines, other public utilities, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or any improvements; structures, equipment, facilities or Park or Building property or appurtenances whatsoever, either real or personal, in any Park, Building, or portion thereof.
- P. No person shall litter, soil or defile restrooms.

- Q. No person shall dig, remove or vandalize any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means or agency, in any park.
- R. No person shall construct or erect any building, edifice, artwork or structure of any kind, permanent or temporary, or construct any public service utility, including but not limited to, any overhead wires, into, upon, through, under or across any Park or Building, without obtaining any and all permits required by this code or other applicable regulations.
- S. No person shall enter, cross or remain in any lawn, grass plot, planting area, or any other area in any park, where prohibited by the City Manager, and where such prohibition is indicated by appropriate signs, fencing or cordoning, or by warning cones.
- T. No person shall damage, cut, carve, transplant, pick, remove or injure in any manner any tree, flower, bush or plant in any park or building.
- U. No person shall climb any tree or walk, stand or sit upon monuments, vases, fountains, water features, railings, fences, statutes or structures of any kind not intended for such purposes.

19.20.090 - Park closure.

Any park, building or portion thereof may be declared closed to the public by the City Manager at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise) and either entirely or only to certain uses, as the City Manager finds reasonably necessary for reasons including but not limited to: natural disaster; local, State and/or National emergencies; for the protection of property; and/or for the public health, safety or welfare. No person shall enter or remain in any park, building, or portion thereof, which has been closed and noticed as closed by appropriate signs, fencing or cordoning, or other means giving notice of park closure.

19.20.100 - Enforcement.

The provisions of this chapter may be enforced by any code enforcement official as defined in Section 1.08.020 of this code.

19.20.110 – Violations of Chapter.

It is unlawful for any person to violate any of the provisions of this chapter, any park rule or regulation adopted pursuant to this Chapter, or to violate any of the terms and conditions of a permit issued pursuant to this chapter. Violation of this Chapter and any permits issued pursuant to this Chapter are deemed a public nuisance and may be subject to enforcement pursuant to Chapters 1.40, 1.42, 1.44 and 1.46 of this code.

EXHIBIT B

TITLE 19 CHAPTER 19.30

ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY

Chapter 19.30- ASSEMBLIES AND PARADES IN PUBLIC STREETS AND RIGHTS-OF-WAY

19.30.010 - Definitions.

As used in this chapter:

- A. "Assembly" means the assembling or coming together of a number of persons for a particular purpose.
- B. "Expressive Activity" shall have that meaning set forth in section 19.20.020 of this code.
- C. "Funeral procession" means a single direct movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.
- D. "March" means a planned or organized gathering of a group of persons, or which may reasonably be expected to result in the gathering of a group of persons, upon any public street, which gathering travels through, across and/or along public streets.
- E. "Parade" means a planned or organized procession of any kind.

19.30.020 - Permit required.

Except as otherwise provided in this Chapter or other applicable law, an Event Permit shall be required to be obtained from the San Rafael Police Department for the following activities:

- A. A parade, procession, march or assembly consisting of persons, animals, vehicles, or any other combination thereof, which is to assemble or travel in unison on any public street, highway, alley, sidewalk or other City-designated public right-of-way and which either: (1) may impede, obstruct, impair or interfere with the free use of such public street, highway, alley, sidewalk, or other public way owned, controlled or maintained by the City; or (2) does not comply with normal or usual traffic regulations or controls.
- B. Event Permits shall be on forms provided by the City and shall require insurance and indemnification from the permittee.
- C. Events Permits requiring the consent of other governmental or private entities shall not be issued where such consent is not provided.
- D. Nothing in this section shall require persons or entities to obtain a permit for Expressive Activities or spontaneous events. Permit requirements for Expressive Activities and regulations regarding spontaneous events are set forth in chapter 19.40 of this code.

19.30.030 - Exceptions.

This chapter shall not apply to any of the following:

- A. Funeral processions.
- B. A governmental agency acting within the scope of its functions.
- C. Expressive Activities as that term is defined in chapter 19.40 of this code.
- D. Activities subject to permits pursuant to chapter 19.20 of this code.

19.30.040 - Application.

Application for permits under this chapter must be filed with the chief of police not less than ninety (90) days in advance of a proposed parade, and not less than seven (7) days in advance of a proposed public march or assembly. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the chief of police to determine that said activity will meet the requirements set forth in section 19.30.050. The application shall be in writing and shall give the following information:

- A. The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated.
- B. The name, address and telephone number of the person who will be directly in charge of and responsible for the activity.
- C. The purpose of the activity.
- D. The date, time and location or route of the proposed activity.
- E. The approximate number of persons who will participate in the activity, and the number and kind of vehicles, equipment and animals, which will be used.
- F. Plans for the dispersal of the activity, including the times and locations thereof.
- G. A statement as to whether the activity will occupy all or only a portion of the streets proposed to be traversed.
- H. A statement as to whether a permit has been requested or obtained from any other city within which said activity shall commence, terminate or occur in part.

19.30.050 - Findings required.

The chief of police or their designated representative shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, they find that:

- A. The activity will not substantially interrupt the safe and orderly movements of traffic in areas of the City beyond the direct vicinity of the proposed activity.

- B. The activity will not require the diversion of so great a number of police officers to properly police the activity and the areas contiguous thereto, as to prevent normal police protection to the city.
- C. The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place, areas contiguous to such area or the remainder of the City.
- D. The activity will not unduly interfere with the movement of fire-fighting equipment en route to a fire, or the movement of other emergency equipment.
- E. The proposed activity includes sufficient security and/or safety mechanisms and protocols so as protect the general health, safety and welfare of the activity participants and the public at large.
- F. Such activity is not to be held for the sole purpose of advertising the goods, wares, or merchandise of a particular business establishment or vendor.
- G. The activity as proposed, will not violate any applicable law.

19.30.060 - Conditions to permit.

- A. The chief of police, or their designated representative, shall condition the permit on the activity complying with the findings set forth in section 19.30.050. The chief of police, or their designated representative shall require the payment for additional police personnel required for proper management of the activity.
- B. Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify and hold harmless the City against losses and liabilities incurred from conduct of the permittee or its officers, employees, agents, and invitees.
- C. The permittee shall procure and maintain in full force and effect during the term of the permit a policy of insurance which policy includes the City, its boards, officers, agents, employees and volunteers as additional insureds and which provides the standard coverage required by the City.

19.30.070 - Prior application.

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, the chief of police or their designated representative may refuse approval of the later application. In case of such refusal, they shall forthwith send the applicant a written notice that they may apply for an alternate time and place.

19.30.080 - Notice of issuance or denial.

Written notice of the issuance or denial of a permit shall be provided to the applicant by the chief of police or their designated representative within ten (10) days of receipt of a completed application. If a permit is denied said written notice shall state the reasons for denial.

19.30.090 - Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the city manager. A notice of appeal shall be filed with the city clerk within two days after receipt of notice of the denial. The city manager shall act upon the appeal within 30 days following receipt of notice of appeal. It may affirm or modify the action of the chief of police or their designated representative. The city manager's decision shall be final.

19.30.100 - Damage or Injury to City Property

The permittee shall be responsible for the removal of all written materials and other property, including restoring the city street, sidewalk, and/or right-of-way in which the activity occurred to its original condition prior to the activity. The permittee shall be responsible for any damage resulting from the activity.

19.30.110 - Duty of permittee.

- A. A permittee hereunder shall comply with all terms and conditions of said permit and with all applicable laws and ordinances.
- B. The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued.

19.30.120 - Revocation of permit.

The chief of police or their designated representative may revoke any permit issued hereunder if (1) the permittee fails to comply with the terms and conditions of said permit, and any other local, state or federal laws governing the activity, or (2) if the activity, because of the manner in which it is being conducted, is jeopardizing those elements of the public safety or welfare set forth in section 19.30.050.

19.30.130 - Public conduct during an assembly or parade.

- A. It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade, procession, march or assembly or with any person, vehicle or animal participating in such a parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this chapter.
- B. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade, procession, march or assembly. The chief of police shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof.

EXHIBIT C
TITLE 19
CHAPTER 19.40
EXPRESSIVE ACTIVITY IN PUBLIC PLACES

Chapter 19.40 – EXPRESSIVE ACTIVITY IN PUBLIC PLACES

19.40.010 – Purpose and Intent

The purpose of this Chapter is to protect the First Amendment rights of the people of San Rafael to peaceably assemble and/or protest in the City’s public places and to establish the least restrictive and reasonable time, place and manner regulation of these activities. It is further intended to provide a coordinated process for managing events to ensure the health and safety of event patrons, residents, workers, and other visitors, to prohibit illegal activities from occurring at the community events, and to create mechanisms for cost recovery and use charges, to the extent authorized by law, while not unduly impacting the viability of events.

19.40.020 – Definitions

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

- A. “Buildings” has the same meaning as in Section 19.20.020(B) of this Code.
- B. “Expressive activity” means conduct, the sole or principal object of which is the expression of opinion, views, or ideas, protected by the First Amendment of the U.S. Constitution. Expressive activity includes, but is not limited to, public oratory and distribution of literature.
- C. “Park(s)” has the same meaning as in Section 19.20.020(I) of this Code.
- D. “Permit” has the same meaning as in Chapter 19.20.020(J) of this Code.

19.40.030 – Permit Required for Large Expressive Activity Gatherings

- A. Except as otherwise provided by the Municipal Code or other applicable law, rule or regulation, an expressive activity permit shall be required to be obtained from the Police Department for following:
 - 1. Any activity or event with the principal purpose of engaging in expressive activity, on City owned, controlled, or maintained property, where the activity involves a gathering of one hundred or more persons, or involving fifty or more persons at the San Rafael City Plaza.
- B. Expressive activity permits shall not be required to be obtained from the Police Department for the following types of activities:

1. Any expressive activity on City owned, controlled, or maintained property involving less than one hundred persons, or involving less than fifty persons at the San Rafael City Plaza.
2. School grounds are exempt from the requirements of this Chapter.
3. Spontaneous events which are occasioned by news or affairs coming into public knowledge less than forty-eight hours prior to such event may be conducted on (1) City property surrounding City Hall, (2) the San Rafael Plaza, (3) City sidewalks as long as the spontaneous event on a sidewalk does not impede vehicular traffic, or (4) the full public right-of-way, only if authorized by the Chief of Police and City Manager in the interest of community health and welfare, without the organizers first having to obtain an expressive activity permit, if the event organizer provides at least four hours prior notice to the Chief of Police of the date, time, and location(s) where the event is to be conducted, their contact information, and an estimate of the number of persons that will be participating. Events which require advance planning such as recreation events, competition/contests/spectator sports, fairs, festivals, carnivals, ticketed events, sales/trade shows or events which require a permit from the San Rafael Parks and Recreation Department shall not be considered spontaneous events.

19.40.040 – Permit Application

- A. To receive an expressive activity permit, a person must complete and file an application with the Police department on a form approved by the City. The applicant must provide the following information:
 1. A description of the proposed use, event, or activity.
 2. The street or other public property and the specific area or areas thereof which will be utilized in connection with the proposed use, event, or activity.
 3. The manner in which the public property will be utilized.
 4. The date or dates and the specific times thereof, including set-up and tear-down, that the public property is to be utilized for the described use, event, or activity.
 5. The name, address and telephone number of the person, entity, or organization sponsoring or conducting the proposed event.
 6. The name, address and telephone number of the person or persons to be contacted regarding the application or permit.
- B. The application shall be filed no later than two days before commencement of the event. The Police Department shall review and issue or deny the application within one day of receipt of a completed application.

19.40.050 – Review Process

- A. Subject to the criteria for denial set forth in Section 19.40.060, the Police Department shall issue an expressive conduct permit if it is determined that all of the following criteria have been met:
1. The proposed use of City property is not governed by or subject to any other permit procedures provided elsewhere in this Code.
 2. The preparation for or the conduct of the proposed activity will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the particular permit area or adversely affect the City's ability to perform municipal functions or furnish city services in the vicinity of the permit area.
 3. The proposed activity does not otherwise present a substantial or unwarranted safety, noise, or traffic hazard.
 4. The proposed event will be of a nature and size appropriate to the proposed venue, location, or site, and will occur during a time period approved for that venue, location, or site.
 5. The proposed event will not include animals except pursuant to regulations regarding animals in parks set forth in Chapter 19.20 of this Code.
 6. A transportation management/parking plan has been approved by the City for the event to the extent such a plan is deemed necessary by the City.
- B. In deciding whether to approve an application, no consideration may be given to the message of the event, the content of speech, or the identity or associational relationships of the applicant.

19.40.060 – Denial/revocation of permit

The Police Department shall deny any application for an expressive activity permit or revoke a permit if the Department finds any of the following:

- A. One or more of the approval criteria specified in Section 19.40.050 is not or can no longer be met.
- B. The applicant has knowingly made a false, misleading or fraudulent statement of fact to the City in the application process.
- C. The application does not contain the information required by this chapter.
- D. The application does not satisfy the requirements of this chapter.
- E. The applicant fails to comply with any conditions of approval including, but not limited to:

1. Remittance of fees, charges or deposits,
2. Submittal of an indemnification agreement and/or proof of insurance for the event as required by the City;
3. Timely receipt of all required approvals; and
4. A condition that if City property is destroyed or damaged by reason of permittee's use, event or activity and the damage or destruction is directly attributable to the permittee, the permittee shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.

F. The applicant has damaged City property and has not paid in full for such damage or has other outstanding and unpaid debts related to a prior community event permit issued by the City.

19.40.070 – Permit Fees

Expressive activity permit application fees and other additional fees and charges, including neighborhood notification fees, for the use of city streets or other city-owned or controlled property pursuant to this chapter shall be established by separate resolution of the City Council.

19.40.080 – Appeals

An applicant may appeal the denial or revocation of a permit by providing the City Manager or designee written notice of appeal within five (5) days of the denial. The City Manager or designee shall hold a hearing within five (5) days of the filing of a notice of appeal, at which time applicant may present any and all evidence, testimony, and information relevant to the City Manager's decision. The City Manager or designee, within five (5) days following the appeal hearing, shall issue a decision. The decision of the City Manager or designee shall be mailed or delivered to the applicant and shall be final and binding.

19.40.090 – Interference with Expressive Activity Prohibited

It shall be unlawful for any person to interfere with an event permitted under this chapter by engaging in the following acts when done with the intent to cause interference:

- A. Blocking, obstructing, or impeding the passage of participants, vehicles, or animals in the community event along the community event route.
- B. Walking or running, driving a vehicle, riding a bicycle or skateboard, or using any similar device through, between, with, or among participants, vehicles, or animals in the community event.
- C. Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals in a community event.

19.40.100 – Hold Harmless

Each permittee shall execute a hold harmless agreement in a form approved by the City agreeing to defend, indemnify, and hold harmless the City against losses and liabilities incurred from the conduct of the permittee or its officers, employees, and agents.

19.40.110 – Display of Expressive Activity Permit

A copy of the expressive activity permit shall be displayed at the community event site and shall be exhibited upon demand of any City official.

19.40.120 – Administrative Regulations

The City Manager, or designee, may adopt administrative regulations that are consistent with and that further the terms and requirements set forth within this chapter. All such administrative regulations must be in writing.

19.40.130 – Penalties

Any person who intentionally violates any of the provisions of this chapter shall be guilty of an infraction. Violations of this chapter may be enforced pursuant to any laws and remedies available to the City including but not limited to enforcement as an infraction and/or public nuisance pursuant to chapters 1.42, 1.44 and 1.46 of this code.

**CITY OF SAN RAFAEL
NOTICE OF ONLINE PUBLIC HEARING**

You are invited to attend an online City Council hearing on the following project:

DATE/TIME/PLACE: **Monday August 2, 2021 at 7:00 P.M.**
COVID-19 ADVISORY NOTICE: *Consistent with Executive Orders No.-25-20 and No. N-29-20 from the Executive Department of the State of California and the Marin County March 16, 2020 Shelter in Place Order, the San Rafael City Council hearing WILL NOT be physically open to the public and the meeting will be streamed live to YouTube at: www.youtube.com/cityofsanrafael. Instructions on how to participate online, will be available on the YouTube channel.*

PROJECT: To receive public comments and consider adoption of an ordinance amending the San Rafael Municipal Code as follows: To Change the Name of Title 19 from “Open Space” to “Public Parks, Property, and Open Space”; to Repeal Chapter 8.10 (Parks and Recreation) and Add a New Chapter 19.20 (Parks and Recreation) to Title 19; to Repeal Chapter 5.70 (Meetings Assemblies and Parades in Public Places) of Title 5 and Add a New Chapter 19.30 (Assemblies and Parades in Public Streets and Rights-Of-Way) to Title 19; to Add New Chapter 19.40 (Expressive Activities in Public Places) to Title 19; to Add New Section 5.60.054 to Chapter 5.60 (Parking Regulations); and Finding the Ordinance Exempt from the California Environmental Quality Act.

This project qualifies for exemption from the provisions of the California Environmental Quality Act Guidelines pursuant to Sections 15183(a) because it entails a project that can be found consistent with the General Plan policies and pursuant to 15061(b)(3), which states that as a ‘general rule’ the California Environmental Quality Act (CEQA) applies only to projects which have the potential to cause a significant, physical environmental effects

IF YOU CANNOT ATTEND: You can send written correspondence by email to city.clerk@cityofsanrafael.org, or by mail/hand delivery to the Office of the City Clerk, City of San Rafael, 1400 5th Ave., San Rafael, CA 94901.

FOR MORE INFORMATION: Contact Lisa Goldfien at lisa.goldfien@cityofsanrafael.org or Susan Andrade-Wax at susan.andradewax@cityofsanrafael.org
You may also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>.

SAN RAFAEL CITY COUNCIL
/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

(Please publish in the Marin Independent Journal on Friday, July 23, 2021



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Bill Guerin,
Director of Public Works

City Manager Approval: _____

TOPIC: SPINNAKER POINT DRIVE PARKING MODIFICATION PROJECT

SUBJECT: RESOLUTION APPROVING THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE SPINNAKER POINT DRIVE PARKING MODIFICATION PROJECT

RECOMMENDATION:

1. Approve the resolution adopting the Mitigated Negative Declaration for the Spinnaker Point Drive Parking Modification Project ("Project").
2. Direct staff to proceed with the final design and submittal of regulatory environmental permits.

BACKGROUND:

The East San Rafael neighborhood has a high density of residents and businesses which contributes to a lack of parking in the area. In May 2017, the City, with assistance from W-Trans, completed the [East San Rafael Parking Study](#), which concluded that East San Rafael experiences high parking demands that exceed available supply. These concerns continued to be expressed throughout outreach discussions on parking in the area. The City has identified the opportunity to convert on-street parallel parking into angled parking along the north side of Spinnaker Point Drive, next to the Albert J. Boro Community Center.

ANALYSIS:

The Project would almost double the parking on the north side of Spinnaker Point Drive between Bahia Way and the crosswalk west of Portsmouth Cove by converting the parallel parking to angled parking. The improvements include realignment of the curb and gutter, widening of the sidewalk, a new bioretention area, median modifications, and an accessible parking stall.

In May 2020, City staff contracted with WRA, Inc., an environmental consultant, to prepare California Environmental Quality Act (CEQA) documentation for the Project as well as obtain regulatory permit approval from the Bay Conservation and Development Commission (BCDC).

Beginning in June 2020, environmental documentation for the State of California in compliance with the California Environmental Quality Act (CEQA) was developed. An Initial Study was prepared to determine the potential environmental impacts, which found that the proposed project would potentially affect biological resources, cultural resources, tribal cultural resources, noise

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

and mandatory findings of significance. The project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures as required in the included Mitigation Monitoring and Reporting Program or through compliance with certain applicable agency requirements.

The primary environmental impacts for this project relate to biological resources and cultural resources. Noise, ground disturbance, and other construction activities could cause a temporary disturbance to salt marsh harvest mouse (SMHM), California Ridgway's rail (CRR) and California black rail, federal and state-protected endangered species, with the potential to occur in the marshlands adjacent to the project area. Implementation of the avoidance and minimization measures listed in Mitigation Measure BIO-1 would reduce construction phase impacts to SMHM to less than significant. Implementation of the avoidance and minimization measures listed in Mitigation Measure BIO-2 would reduce construction phase impacts to CRR and black rail. The operational phase of the project would have a less than significant effect on special status species in the area. The project would not impede the movement of a native resident or migratory fish or wildlife species, as drainage patterns and topographic features would not be changed. However, the project has the potential to temporarily impede the use of native wildlife nursery sites during the construction phase by damaging bird nests and causing injury or mortality to eggs or chicks, or disturbance of nesting adults resulting in reduced clutch survival or nest abandonment. Implementation of Mitigation Measures BIO-3 would ensure that impacts to native wildlife nursery sites are less than significant during the construction phase.

The project area has a low sensitivity for archaeological resources. Historically, the project area was part of the waters of San Rafael Bay. In the event that archeological resources are discovered, implementation of Mitigation Measure CULT-1 would ensure such impacts would be less than significant.

The recommended resolution would adopt the Mitigated Negative Declaration and approve the Mitigation Monitoring and Reporting Program in accordance with CEQA Guidelines and clear this project for construction from the environmental clearance standpoint except for necessary permits required from environmental regulatory agencies.

It is also recommended that the Council direct staff to proceed with conducting the final design work and procurement of environmental regulatory permits.

PUBLIC OUTREACH: Public Works has engaged the community and key stakeholders to discuss neighborhood parking issues throughout the last several years. There have been meetings with Canal Alliance, all the neighborhood associations in the area, the Marin Organizing Committee, and the East San Rafael Working Group. There have been multiple public presentations at the Park and Recreation Commission and past City Council meetings.

A Notice of Public Hearing and Intent to Adopt the Initial Study/Mitigated Negative Declaration was published in the *Marin IJ* on May 24, 2021 (see Attachment 2) and was mailed to residents/businesses residing within 1,000 feet of the project. As required by CEQA Guidelines Section 15073, a minimum 30-day public review period was provided for the Initial Study/Mitigated Negative Declaration.

The Initial Study/Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program, is on the City's website, and can be accessed for review at: <https://www.cityofsanrafael.org/spinnaker-point-parking-modifications/> (Attachment 3). The formal public review period closed on June 22, 2021 with the City receiving no public comments.

FISCAL IMPACT: There is no fiscal impact.

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

OPTIONS: The City Council has the following options to consider relating to this matter:

1. Approve the resolution as presented and direct staff to proceed with final design work and procurement of environmental regulatory permits.
2. Approve the resolution with modifications.
3. The City Council may decline to approve the resolution, which will result in the project being unable to move forward.
4. The City Council may defer action and request staff to provide further information or modifications at a future Council meeting.

RECOMMENDED ACTION:

1. Approve the resolution adopting the Mitigated Negative Declaration and Associated Mitigation Monitoring and Reporting Program for the Project.
2. Direct staff to proceed with the final design and submittal of regulatory environmental permits.

ATTACHMENT:

1. Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
2. Public Hearing Notices
3. Final Study/Mitigated Negative Declaration including Mitigation Monitoring and Reporting Program dated July 2021

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL ADOPTING THE MITIGATED NEGATIVE DECLARATION AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE SPINNAKER POINT DRIVE PARKING MODIFICATION PROJECT, CITY PROJECT NO. 11363

WHEREAS, the City desires to create additional on-street public parking along Spinnaker Point Drive and has prepared a conceptual design under City Project No. 11363; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Guidelines, it was determined that, for purposes of CEQA, the improvements are defined as a “project” subject to environmental review; and

WHEREAS, pursuant to CEQA Guidelines Section 15063, an Initial Study was prepared to determine the potential environmental impacts of the Project; and

WHEREAS, in preparing the Initial Study, an offer of tribal consultation was made to the local Native American Tribe (Federated Indians of Graton Rancheria) consistent with Public Resources Code Sections 21080.3.1; and

WHEREAS, on April 8, 2021, the Federated Indians of Graton Rancheria (FIGR) responded to the offer of consultation requesting additional information on the project; and

WHEREAS, as demonstrated in the preparation of the Initial Study, the proposed Project would result in a number of potentially significant environmental impacts for which mitigation is recommended to reduce these impacts to a less-than-significant level; and

WHEREAS, consistent with CEQA Guidelines Section 15070, the Initial Study supports and recommends the adoption of a Mitigated Negative Declaration; and

WHEREAS, pursuant to CEQA Guidelines Section 15073, on May 24th, 2021, the City published a Notice of Public Hearing and Intent to Adopt the Initial Study/Mitigated Negative Declaration which was made available for a 30-day public review period. The formal public review period closed on June 22nd, 2021 with the City receiving no public comments; and

WHEREAS, on August 2, 2021, the City Council held a duly noticed public hearing to review the Initial Study/Mitigated Negative Declaration and MMRP and considered all oral and written public testimony; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the City Clerk;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby adopts the Mitigated Negative Declaration for the Spinnaker Point Drive Parking Modification Project, City Project No. 11363, based on the following findings:

1. The Initial Study/Mitigated Negative Declaration has been prepared in accordance with CEQA, the CEQA Guidelines, and the provisions of the City of San Rafael Environmental Assessment Procedures Manual. Further, in preparing the Initial Study/Mitigated Negative Declaration, the City followed the steps and procedures required by Public Resources Code Sections 21080.3 and 21080.3.2 (AB 52) by offering and completing tribal consultation with the local Native American Tribe (Federated Indians of Graton Rancheria). As a result of this consultation, mitigation measures required to address potential archaeological resources have been incorporated into the Mitigated Negative Declaration.
2. As prescribed by CEQA Guidelines Section 15073, a public review period of a minimum of 30 days was observed for public comment (30-days observed commencing on May 24th, 2021 and closing on June 22nd, 2021).
3. The Mitigated Negative Declaration has been presented to the City Council, who has reviewed and considered the information in the Initial Study for adopting a Mitigated Negative Declaration. Further, the City Council finds that the Initial Study is adequate and complete to support the adoption of a Mitigated Negative Declaration.
4. The City Council has exercised its independent judgment in evaluating the Initial Study and has considered the comments received during the public review period

and public hearing. Based on this review, the City Council has determined that revisions have been made to the Project or have been included in the Project as conditions of approval which reduce the potentially significant impacts related to biological resources, cultural resources, hazards and hazardous materials, noise, and air quality for which mitigation measures are required;

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 Council of said City on the 2nd day of August 2021, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

File No.: 16.01.293

Marin Independent Journal

4000 Civic Center Drive, Suite 301

San Rafael, CA 94903

415-382-7335

legals@marinij.com

CITY OF SAN RAFAEL
1400 FIFTH AVENUE
CITY CLERK, ROOM 209
SAN RAFAEL, CA 94901

.....

Account Number: 2070419

Ad Order Number: 0006578677

Customer's Reference SCHOEN PARK NOTICE
/ PO Number:

Publication: Marin Independent Journal

Publication Dates: 05/24/2021

Amount: \$154.14

**Invoice Text: CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT AN INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION
CEQA Public Review Period:
May 24, 2021 to June 22, 2021**

You are being informed of the availability of a Draft Initial Study/Mitigated Negative Declaration for public review and invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE:

Monday, July 19, 2021 at 7:00 P.M.

Location: Due to the City of San Rafael Executive Order N-29-20, in person meetings are currently not allowed. The meeting will be streamed through YouTube Live at www.youtube.com/cityofsanrafael. More information on how to provide comments virtually can be found at <https://www.cityofsanrafael.org/live-commenting-pilot/>.

PROJECT: Schoen Park Modifications Project. Located along Canal Street at APNs 009-071-08, 009-032-07, 009-142-01, 009-081-44, and 009-081-45. Project calls for the removal of Schoen Park and its replacement with street parking and a bioretention basin. City File No: 16.01.293.

Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link:

<https://www.cityofsanrafael.org/schoenparkproject/>. A hard copy of the Initial Study is available for review at the Department of Public Works, 111 Morphew Street, San Rafael. A 30-day public review period is being observed for review and comment on the Initial Study/ Mitigated Negative Declaration, commencing on Monday, May 24th, 2021 and closing on Tuesday, June 22nd, 2021. All written comments on the Initial Study must be submitted to the City by June 22nd, 2021. The City Council will then hold a public hearing on the matter on the date listed above.

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and decide whether to approve or deny the application.

IF YOU CANNOT ATTEND: You can send written correspondence by email to the address below, or by mail/hand delivery to the Public Works Department, City of San Rafael, 111 Morphew St, San Rafael, CA 94901.

FOR MORE INFORMATION: Visit the project webpage at <https://www.cityofsanrafael.org/san-quentin-pump-station/> or contact **Theo Sanchez**, Associate Civil Engineer at **(415) 458-5326** or Theo.Sanchez@CityofSanRafael.org. You can also come to the Public Works office, located at 111 Morphew Street, to look at the file for the proposed project. The office is open from 8 a.m. to 5 p.m. Monday thru Thursday and 8 a.m. to 4p.m. on Friday. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY CLERK

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

May 24, 2021

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com
2070419

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1400 FIFTH AVENUE
CITY CLERK, ROOM 209
SAN RAFAEL, CA 94901

PROOF OF PUBLICATION (2015.5 C.C.P.)

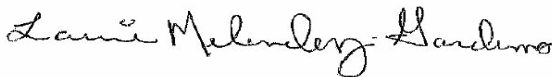
STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

05/24/2021

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 24th day of May, 2021.



Signature

PROOF OF PUBLICATION

Legal No. **0006578677**

**CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING AND INTENT TO
ADOPT AN INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION
CEQA Public Review Period:
May 24, 2021 to June 22, 2021**

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PROJECT: Schoen Park Modifications Project.

Located along Canal Street at APNs 009-071-08, 009-032-07, 009-142-01, 009-081-44, and 009-081-45. Project calls for the removal of Schoen Park and its replacement with street parking and a bioretention basin. City File No: 16.01.293.

Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial

Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link: <https://www.cityofsanrafael.org/schoenparkproject/>. A hard copy of the Initial Study is available for review at the Department of Public Works, 111 Morphew Street, San Rafael. A 30-day public review period is being observed for review and comment on the Initial Study/ Mitigated Negative Declaration, commencing on Monday, May 24th, 2021 and closing on Tuesday, June 22nd, 2021. All written comments on the Initial Study must be submitted to the City by June 22nd, 2021. The City Council will then hold a public hearing on the matter on the date listed above.

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FOR MORE INFORMATION : Visit the project webpage at <https://www.cityofsanrafael.org/san-quentin-pump-station/> or contact **Theo Sanchez**, Associate Civil Engineer at **(415) 458-5326** or Theo.Sanchez@CityofSanRafael.org. You can also come to the Public Works office, located at 111 Morphew Street, to look at the file for the proposed project. The office is open from 8 a.m. to 5 p.m. Monday thru Thursday and 8 a.m. to 4p.m. on Friday. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY CLERK

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

May 24, 2021

Marin Independent Journal

4000 Civic Center Drive, Suite 301

San Rafael, CA 94903

415-382-7335

legals@marinij.com

CITY OF SAN RAFAEL
1400 FIFTH AVENUE
CITY CLERK, ROOM 209
SAN RAFAEL, CA 94901

.....

Account Number: 2070419

Ad Order Number: 0006594088

Customer's Reference SPINMAKER POINT PARKING MODIFICATIONS
/ PO Number:

Publication: Marin Independent Journal

Publication Dates: 07/23/2021

Amount: \$122.98

**Invoice Text: CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING AND INTENT
TO ADOPT AN INITIAL STUDY/MITIGATED
NEGATIVE DECLARATION**

You are being invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE:

Monday, August 2, 2021 at 7:00 P.M.

Postponed from Monday July 19, 2021 at 7:00 P.M.

Location: Due to the City of San Rafael Executive Order N-29-20, in person meetings are currently not allowed. The meeting will be streamed through YouTube Live at www.youtube.com/cityofsanrafael. More information on how to provide comments virtually can be found at <https://www.cityofsanrafael.org/live-commenting-pilot/>.

PROJECT: Schoen Park Spinnaker Point Drive Parking Modifications Project. Located along Canal Street at APNs 009-071-08, 009-032-07, 009-142-01, 009-081-44, and 009-081-45. Project calls for the removal of Schoen Park and its replacement with street parking and a bioretention basin. City File No: 16.01.293.

Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link: <https://www.cityofsanrafael.org/spinnaker-point-parking-modifications/>

IF YOU CANNOT ATTEND: You can send written correspondence by email to the address below, or by mail/hand delivery to the Public Works Department, City of San Rafael, 111 Morphew St, San Rafael, CA 94901.

FOR MORE INFORMATION: Visit the project webpage at <https://www.cityofsanrafael.org/san-quentin-pump-station/> or contact **Theo Sanchez**, Associate Civil Engineer at **(415) 458-5326** or **Theo.Sanchez@CityofSanRafael.org**. You can also come to the Public Works office, located at 111 Morphew Street, to look at the file for the proposed project. The office is open from 8 a.m. to 5 p.m. Monday thru Thursday and 8 a.m. to 4p.m. on Friday. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY CLERK

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

July 23,2021

Marin Independent Journal

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PROOF OF PUBLICATION (2015.5 C.C.P.)

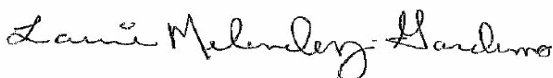
STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

07/23/2021

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 23th day of July, 2021.



Signature

PROOF OF PUBLICATION

Legal No. **0006594088**

CITY OF SAN RAFAEL NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

You are being invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE:

Monday, August 2, 2021 at 7:00 P.M.

Postponed from Monday July 19, 2021 at 7:00 P.M.

Location: Due to the City of San Rafael Executive Order N-29-20, in person meetings are currently not allowed. The meeting will be streamed through YouTube Live at www.youtube.com/cityofsanrafael. More information on how to provide comments virtually can be found at <https://www.cityofsanrafael.org/live-commenting-pilot/>.

PROJECT: Schoen Park Spinnaker Point Drive

Parking Modifications Project. Located along Canal Street at APNs 009-071-08, 009-032-07, 009-142-01, 009-081-44, and 009-081-45. Project calls for the removal of Schoen Park and its replacement with street parking and a bioretention basin. City File No: 16.01.293.

Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link:

<https://www.cityofsanrafael.org/spinnaker-point-parking-modifications/>

IF YOU CANNOT ATTEND : You can send written correspondence by email to the address below, or by mail/hand delivery to the Public Works Department, City of San Rafael, 111 Morphew St, San Rafael, CA 94901.

FOR MORE INFORMATION: Visit the project webpage at <https://www.cityofsanrafael.org/san-quentin-pump-station/> or contact **Theo Sanchez**, Associate Civil Engineer at **(415) 458-5326** or **Theo.Sanchez@CityofSanRafael.org**.

You can also come to the Public Works office, located at 111 Morphew Street, to look at the file for the proposed project. The office is open from 8 a.m. to 5 p.m. Monday thru Thursday and 8 a.m. to 4p.m. on Friday. You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY CLERK

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

July 23, 2021

Final Initial Study / Mitigated Negative Declaration

Schoen Park Modifications Project

SCH #2021050536

CITY OF SAN RAFAEL, CALIFORNIA

Prepared For:

Theo Sanchez
City of San Rafael
Department of Public Works
111 Morpew Street
San Rafael, CA 94901

Prepared By:

WRA, Inc.
2169-G East Francisco Boulevard
San Rafael, California 94901

Date: July 2021



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BACKGROUND

- 1. Project Title:** Schoen Park Modifications Project
- 2. Lead Agency and Project Applicant:** City of San Rafael
Department of Public Works
111 Morphew Street
San Rafael, California 94901
- 3. Contact Person and Phone Number:** Theo Sanchez
Tel: (415) 458-5326
Email: Theo.Sanchez@cityofsanrafael.org
- 4. Project Location:** On Canal Street near the junction with Spinnaker Point Drive in the City of San Rafael, Marin County, California (see Figures 1 and 2)
- 5. Surrounding Land Uses and Setting:**

The proposed project is located at Assessor's Parcel Numbers (APN) 009-071-08, 009-032-07, 009-142-01, 009-081-44, and 009-081-45. The proposed project limits are on the north side of the street from the intersection of Canal Street/Bahia Way to Spinnaker Point Drive/Portsmouth Cove (Figure 1). Project plans involve the removal of existing park infrastructure and its replacement with additional on-street parking for public use. The project footprint is on City of San Rafael land and does not encroach on other properties. Adjacent parcels contiguous with the project limits are owned by the City of San Rafael and the Marin Audubon Society. The Albert J. Boro Community Center is directly to the north of the site's western edge.

Schoen Park, which resides on 0.15 acres, is located on Canal Street near the junction with Spinnaker Point Drive. The proposed project limits are on the north side of the street from the intersection of Canal Street/Bahia Way to Spinnaker Point Drive/Portsmouth Cove (Figure 2). Adjacent parcels contiguous with the project limits are owned by the City of San Rafael and the Marin Audubon Society. The proposed project is located on 0.75 acres of former marshland.

The zoning district designated for the project site is P/OS and PD-WO (Parks/Open Space Zoning District and Planned Development-Wetland Overlay District). The General Plan land use designation for the site is Conservation and Park, and the land use designations in the project vicinity include Conservation to the north and west, Residential-medium density to the south, and Park to the east.

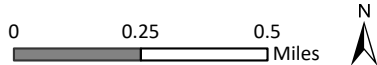


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Sources: National Geographic, WRA | Prepared By: njander, 7/15/2020


Figure 1. Project Site Regional Location Map

Schoen Park Modifications Project
 San Rafael, Marin County, California



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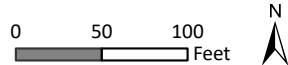


 Project Site (0.75 ac.)

Sources: Marin County Imagery 2018, WRA | Prepared By: njander, 11/6/2020

Figure 2. Aerial Location Map

Schoen Park Modifications Project
San Rafael, Marin County, California



6. Existing System:

In 2017, the City retained a traffic engineering consultant, W-Trans, to evaluate parking conditions within East San Rafael and determine appropriate parking strategies that, if implemented, might relieve or minimize some of the negative impacts associated with high parking demands and low turnover rates. Since the May 2017 study was released, the City has amended applicable sections of the Municipal Code, implemented time limits for on-street parking, and conducted 'after' study analysis to determine the impacts of these changes. While initial results suggest that the City's efforts have contributed to reduced parking occupancy rates, nevertheless, parking demand, especially at night, remains high. In its November 18, 2019 report to the City Council, staff proposed adding parking capacity at several key locations, including Schoen Park. For this reason, the City seeks to repurpose the underutilized park by creating additional on-street parking for public use. Furthermore, in 2019 the City installed new playground equipment at Pickleweed Park, located approximately 800 feet west of the Schoen Park site. Given the close proximity to the major improvements at Pickleweed Park, the City does not desire to make improvements at Schoen Park.

7. Project Description:

Removal of Existing Park Infrastructure

In order to create the space needed for additional on-street parking, all current infrastructure that comprises Schoen Park must be removed. The wooden bench and concrete tiles that make up the recreational area will be removed. In total five trees must be completely removed from the site to facilitate new construction. Two pine trees with 30" diameters and three mulberry trees with 14" diameters will be removed, including all root systems and associated irrigation. All existing signage associated with the park will be removed. The existing curb, gutter, sidewalk, and header board along the northern edge of Canal Street will be sawcut, removed, and disposed. The existing pavement of Canal Street in the project area will be removed and replaced to ensure positive drainage. An existing water meter owned by the Marin Municipal Water District (MMWD) would be terminated by MMWD. Approximately 25 feet of existing chain link fence will be removed. After all of the infrastructure is removed, approximately 650 CY of existing asphalt, base rock, and native soils would be excavated and hauled off site. Figure 3 shows the current condition of the project area and Figure 4 shows the surrounding areas. All removed materials will be disposed of at an offsite location.

Construction of New Parking Area

Upon removal of all existing infrastructure, construction of the new on-street parking area that would result in a total of 46 parking spaces, including one ADA parking pad, will begin. Existing on-street parking consists of 20 parking spaces and thus the proposed project will result in a net increase of 20 parking spaces. The roadway would be widened to accommodate parking areas. To widen the road and create room for the sidewalks and gutters, 380 tons of Class 2 aggregate base rock, 210 tons of permeable HMA and 325 tons of hot mix asphalt mix will be installed.

Concrete construction consists of 168 linear feet of curb and gutter, 444 linear feet of vertical curb, 2,971 square feet of 4-inch thick, 4-foot wide permeable



View 1. View looking north from the middle of the site to the community center.



View 2. View of the wooden bench and exercise equipment in the northern area of the park that will be removed.



View 3. View looking south from the edge of the fencing along the northern border of the park.



View 4: View of the northernmost edge of the site facing northeast.



View 1. View of parking along the eastern edge of Canal Street across from Schoen Park.



View 2. View of Tiscornia Marsh looking southeast from the footpath behind Schoen Park



View 3. View of the vacant lot adjacent to Schoen park and the community center.



View 4: View of Starkweather Shoreline Park adjacent to Schoen Park's southern boundary.

concrete sidewalk, 355 linear feet of 8-inch thick valley gutter, and one driveway would be installed. The driveway would cover a 20-foot section of the sidewalk. An approximately 661 square foot section of crushed gravel would be installed northward of the sidewalk portion. Accompanying signage and road striping to designate the new parking area would be installed once the road widening and concrete construction is completed. Three new wooden street light poles with luminaries would be installed. The wood poles do not have a concrete foundation, but they would be installed approximately 6 feet deep. A wooden retaining wall would be constructed along the shoreward side of the sidewalk parallel to the extent of the bioretention basin.

An approximately 841 square foot bioretention facility would be constructed immediately to the west of the western most parking space to compensate for the addition of impermeable surfaces to the project site. The newly constructed gutters would channel stormwater flow to the bioretention basin where it can be filtered and absorbed into groundwater systems. 21 linear feet of 12-inch storm drain pipe would be installed within the permeable soil of the bioretention basin that would channel accumulated runoff into the existing stormwater system. The basin would be revegetated with native vegetation.

One crape myrtle tree would be planted adjacent to the ADA parking stall. The tree would be supported by two tree stakes and will be covered by a 3-inch layer of mulch. Slow release fertilizer tablets would be planted with the tree and a treegator watering bag will be installed to ensure tree growth.

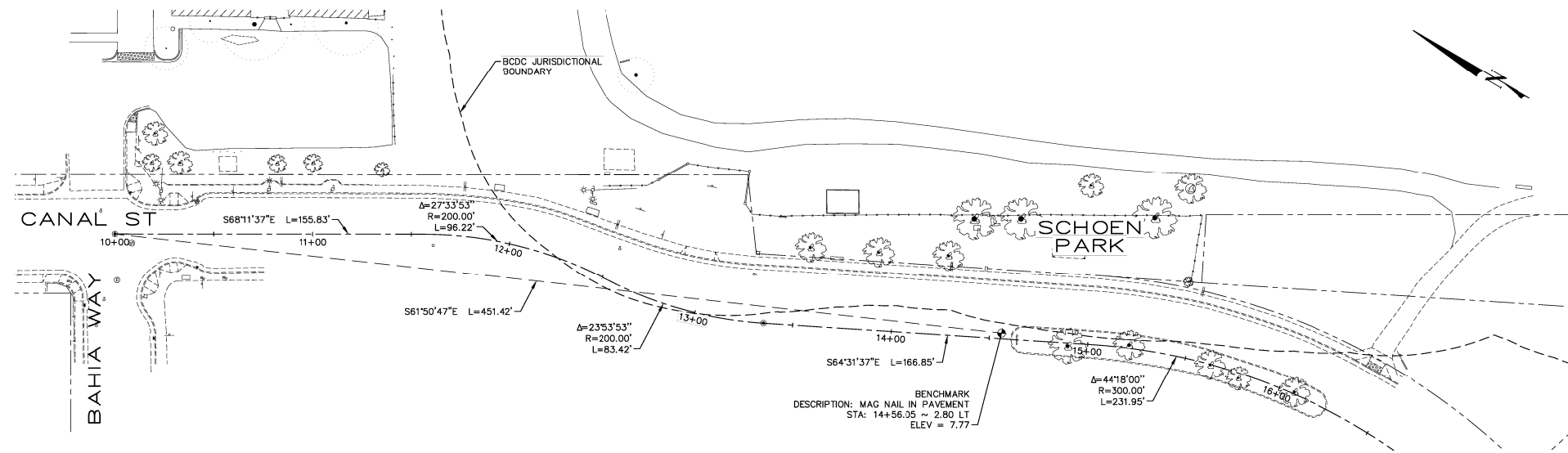
One ADA-style picnic table currently in nearby Pickleweed Park will be relocated to southeastern most extent of the project area on along the Shoreline Park pathway. A new non ADA-style picnic table will be installed adjacent to the ADA parking pad. In total the picnic tables will occupy approximately 271 square feet. Figures 5 through 11 show detail the full construction plans for the project.

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TOPOGRAPHIC NOTES

1. BENCHMARK: MAG NAIL SHOWN ON PLAN. ELEVATION IS 7.77. DATUM IS NAVD 88 BY GPS OBSERVATIONS UTILIZING THE CALIFORNIA SURVEY AND DRAFTING SUPPLY VSN.
2. FIELD SURVEY DATE: JANUARY 31, 2019.

DRAFT 95% DESIGN
NOT FOR CONSTRUCTION

DESIGNED		BY		DATE	
NO.	REVISION	NO.	REVISION	NO.	DATE
DESIGNED	H.Y.	DESIGNED	H.Y.	DESIGNED	H.Y.
DRAWN	H.Y.	CHECKED	H.Y.	APPROVED	H.Y.
PROJECT NAME			DATE		
SCHOEN PARK MODIFICATIONS			CALIFORNIA		
DRAWING NAME			COUNTY OF MARIN		
SURVEY CONTROL PLAN			SAN RAFAEL		
CITY OF SAN RAFAEL DEPARTMENT OF PUBLIC WORKS					
SCALE: 1"=33'					
DATE: SEPTEMBER 2020					
CITY PROJECT NO.: 11363					
SHEET NO.: SC01					
DRAWING: 3 OF 10					

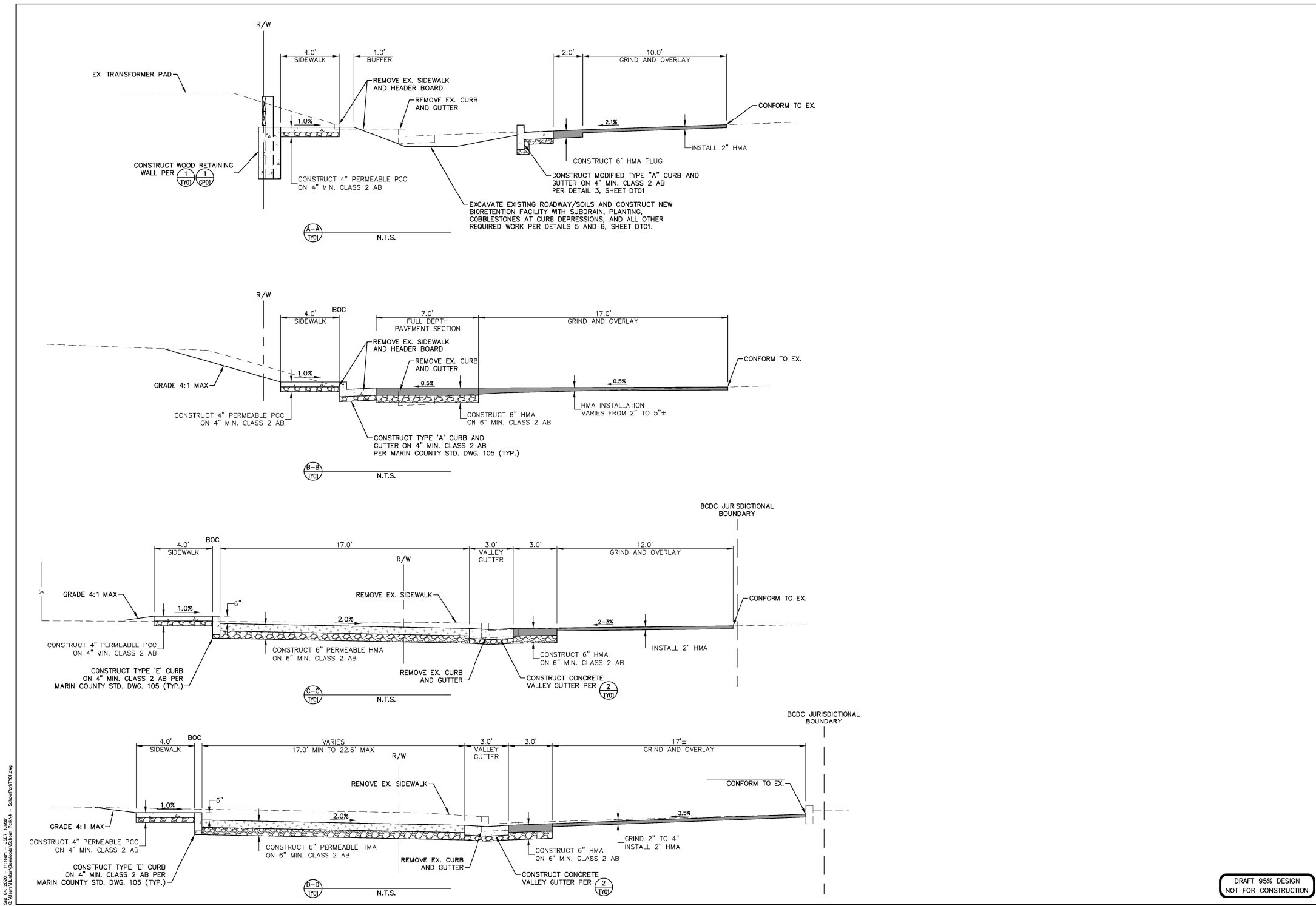
Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

Figure 5. Survey Control Plan

Schoen Park Modifications Project
San Rafael, Marin County, California

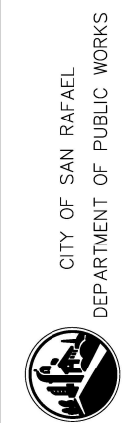


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PROJECT NAME		DATE
SCHOEN PARK MODIFICATIONS		CALIFORNIA
DRAWING NAME		COUNTY OF MARIN
TYPICAL SECTIONS AND DETAILS		SAN RAFAEL

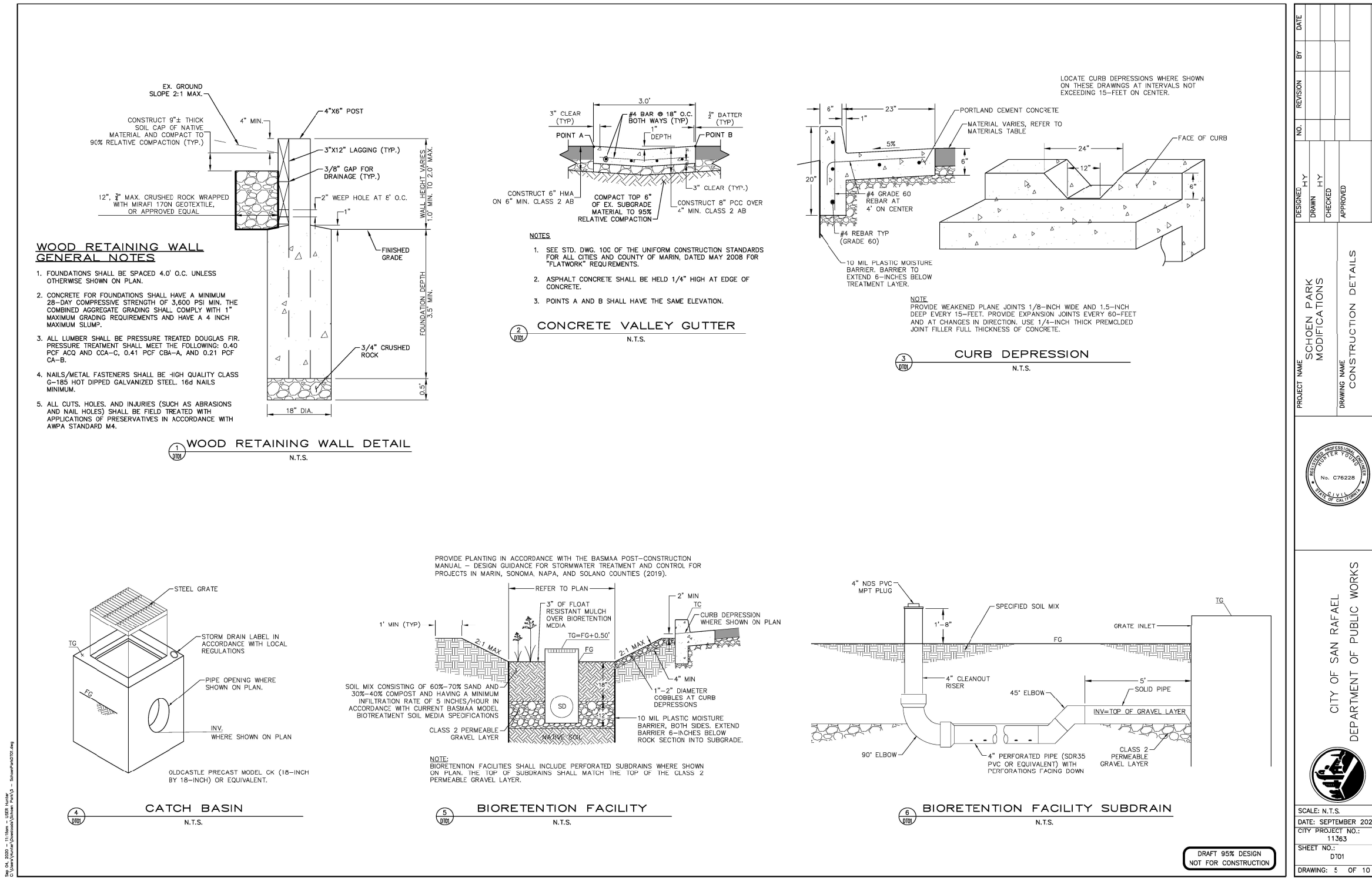


SCALE: N.T.S.
DATE: SEPTEMBER 2020
CITY PROJECT NO.: 11363
SHEET NO.: T101
DRAWING: 4 OF 10

Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

Figure 6. Typical Sections and Details

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PROJECT NAME	SCHOEN PARK MODIFICATIONS	DATE
DRAWING NAME	CONSTRUCTION DETAILS	DATE
	SAN RAFAEL	COUNTY OF MARIN
		CALIFORNIA

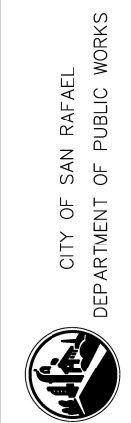


Figure 7A. Construction Details

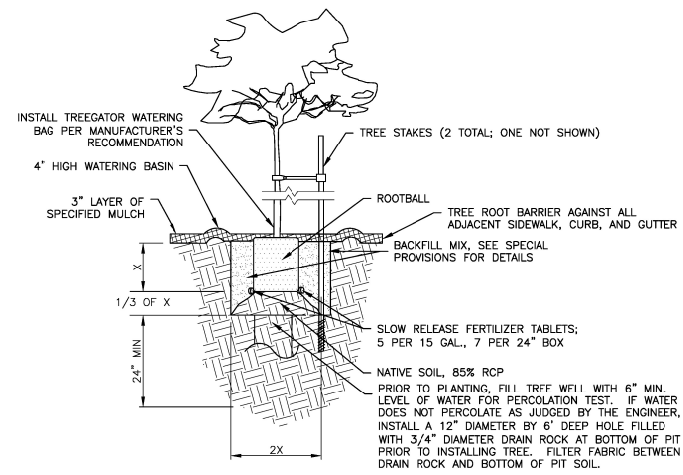
Schoen Park Modifications Project
San Rafael, Marin County, California



Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

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NOTES:

1. SCARIFY WALLS OF PLANTING PIT.
2. SET ROOT CROWN 2" ABOVE SOIL LEVEL.
3. REMOVE ALL NURSERY STAKES.
4. INSTALL TREE STAKES PER MANUFACTURER'S RECOMMENDATIONS.
5. 'X' IS EQUAL TO THE DEPTH OF THE ROOTBALL.

'TREE PLANTING IN PLANTER AREA' DETAIL
N.T.S.

PLANTING NOTES: (FOR USE WITH DETAIL 1)

1. CONTRACTOR SHALL MEET ON SITE WITH THE ENGINEER PRIOR TO ANY PLANTING OR SOIL PREPARATION TO REVIEW LAYOUT AND PLANT LOCATIONS.
2. CONTRACTOR SHALL NOTIFY THE ENGINEER IN THE EVENT OF PLANT UNAVAILABILITY IMMEDIATELY AFTER BID AWARD. NO SUBSTITUTIONS WILL BE ACCEPTED WITHOUT PRIOR APPROVAL FROM THE ENGINEER.
3. ALL PLANTS IN A GROUP PLANTING SHALL MATCH IN HEIGHT, CALIPER AND VIGOR TO ASSURE EVEN GROWTH RATES.
4. SOIL PREPARATION SHALL BE COMPLETED PRIOR TO PLANTING. SEE SPECIAL PROVISIONS FOR SOIL PREPARATION REQUIREMENTS.
5. ALL PLANTS SHALL BE INSPECTED BY THE ENGINEER EITHER PRIOR TO DELIVERY OR IMMEDIATELY AFTER DELIVERY TO THE JOB SITE. THE ENGINEER RESERVES THE RIGHT TO REJECT ANY PLANT MATERIALS DEEMED UNSUITABLE.
6. TREE PLANTING HEIGHTS: TREES IN OPEN PLANTING AREAS (WITHOUT TREE GRATES) SHALL BE PLANTED WITH THE TOP OF THE ROOTBALL 2" ABOVE GRADE.
7. ALL PLANTING AREAS SHALL RECEIVE A 3" DEPTH LAYER OF SPECIFIED MULCH UNLESS OTHERWISE NOTED. SUBMIT SAMPLE FOR APPROVAL.
8. THE CONTRACTOR SHALL FURNISH AND INSTALL TREE ROOT BARRIER ADJACENT TO ALL FLATWORK. SEE PLANS AND SPECIAL PROVISIONS FOR ADDITIONAL INFORMATION.

DRAFT 95% DESIGN
NOT FOR CONSTRUCTION

DESIGNED	H.Y.	NO.	REVISION	BY	DATE
DRAWN	H.Y.				
CHECKED					
APPROVED					

PROJECT NAME: SCHOEN PARK MODIFICATIONS
DRAWING NAME: CONSTRUCTION DETAILS
SAN RAFAEL COUNTY OF MARIN CALIFORNIA

CITY OF SAN RAFAEL
DEPARTMENT OF PUBLIC WORKS

SCALE: N.T.S.
DATE: SEPTEMBER 2020
CITY PROJECT NO.: 11363
SHEET NO.: D102
DRAWING: 6 OF 10

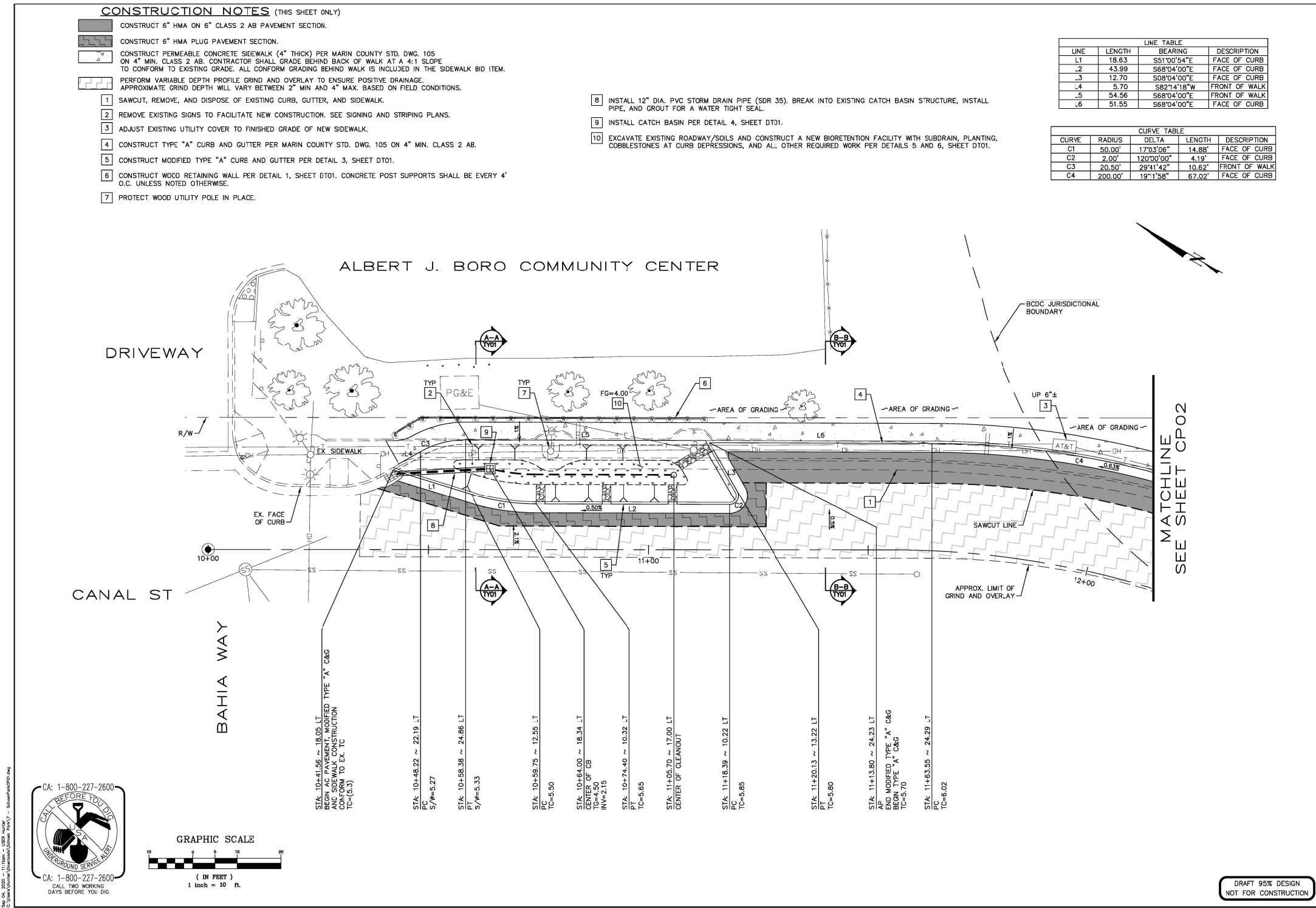
Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

Figure 7B. Construction Details

Schoen Park Modifications Project
San Rafael, Marin County, California



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DESIGNED BY: _____ DATE: _____
 DRAWN BY: _____
 CHECKED BY: _____
 APPROVED BY: _____

PROJECT NAME: SCHOEN PARK MODIFICATIONS
 DRAWING NAME: CONSTRUCTION PLAN STA. 10+00 TO 12+00
 COUNTY OF MARIN, CALIFORNIA

CITY OF SAN RAFAEL
 DEPARTMENT OF PUBLIC WORKS

SCALE: 1"=10'
 DATE: SEPTEMBER 2020
 CITY PROJECT NO.: 11363
 SHEET NO.: CF01
 DRAWING: 7 OF 10

Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

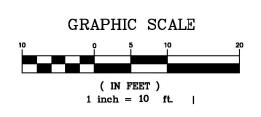
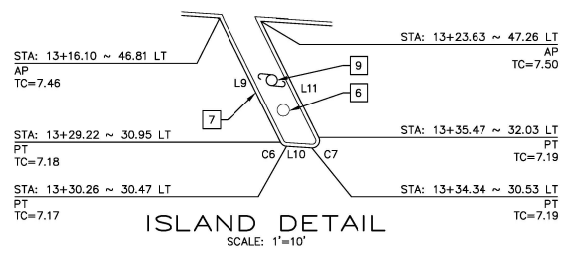
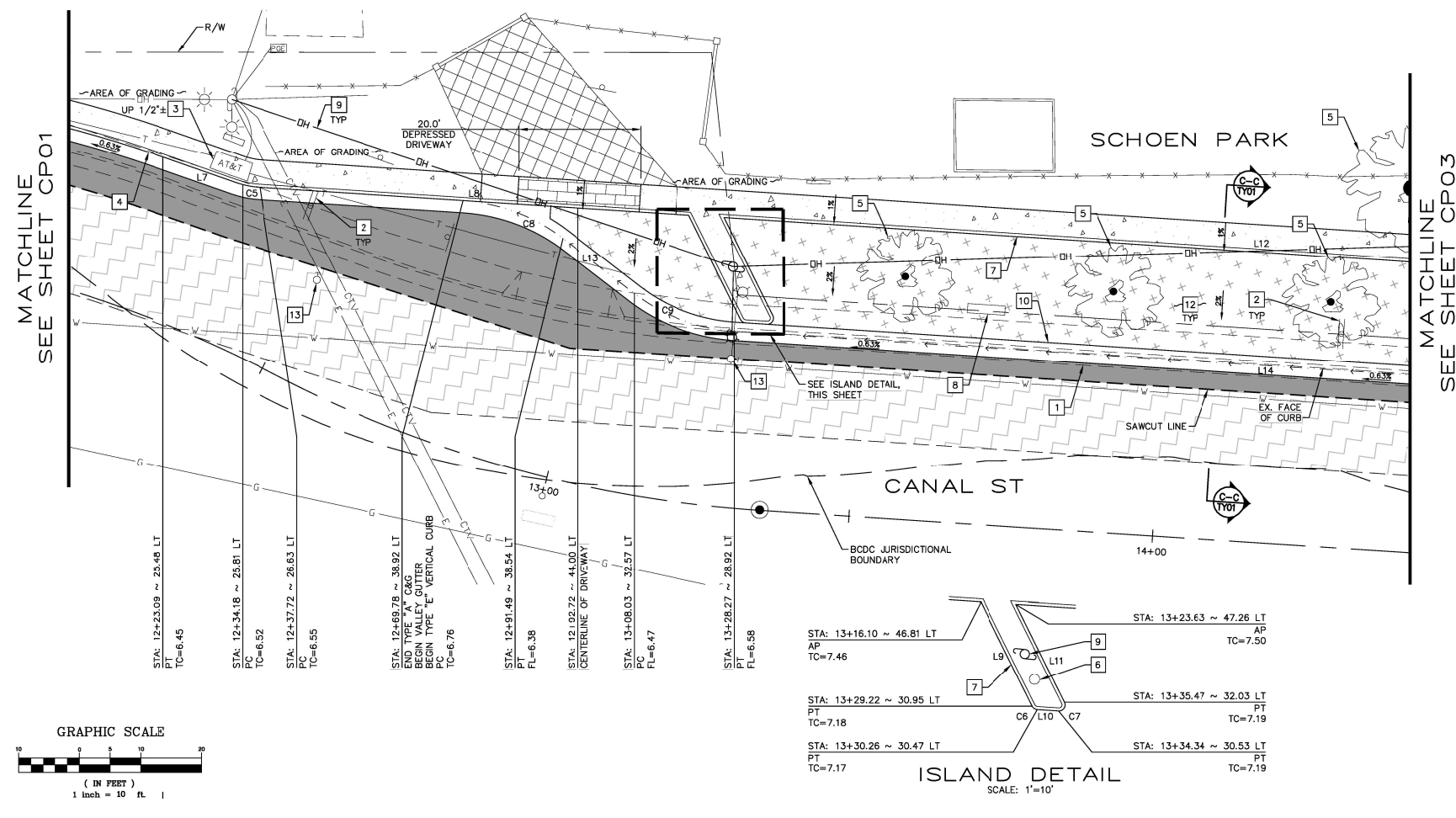
Figure 8. Construction Plan STA 10+00 to 12+00

CONSTRUCTION NOTES (THIS SHEET ONLY)

- 1 SAWCUT, REMOVE, AND DISPOSE OF EXISTING CURB, GUTTER, AND SIDEWALK.
- 2 REMOVE EXISTING SIGNS TO FACILITATE NEW CONSTRUCTION. SEE SIGNING AND STRIPING PLANS.
- 3 ADJUST EXISTING UTILITY COVER TO FINISHED GRADE OF NEW SIDEWALK.
- 4 CONSTRUCT TYPE 'A' CURB AND GUTTER PER MARIN COUNTY STD. DWG. 105 ON 4" MIN. CLASS 2 AB.
- 5 REMOVE EXISTING TREE, ROOT SYSTEM, AND GRIND STUMP TO FACILITATE NEW CONSTRUCTION.
- 6 PROTECT EXISTING FIRE HYDRANT.
- 7 CONSTRUCT 6" TALL TYPE 'E' VERTICAL CURB PER MARIN COUNTY STD. DWG. 105 ON 4" MIN. CLASS 2 AB.
- 8 REMOVE AND DISPOSE OF BENCH AND CONCRETE TILES.
- 9 FURNISH AND INSTALL WOOD POLE WITH 10' LONG MAST ARM AND 3CW LED LUMINAIRE. CONTRACTOR SHALL FURNISH AND INSTALL NEW OVERHEAD CABLE, WRAP AND COIL POWER CABLE FOR PG&E TO CONNECT AND ENERGIZE. SEE SPECIAL PROVISIONS FOR ADDITIONAL REQUIREMENTS.
- 10 CONSTRUCT CONCRETE VALLEY GUTTER PER DETAIL 2, SHEET DT01.
- 11 NOTE NOT USED.
- 12 REMOVE AND DISPOSE OF ALL IRRIGATION SYSTEM ELEMENTS.
- 13 ADJUST WATER VALVE COVER TO FINISHED GRADE.

LINE	LENGTH	BEARING	DESCRIPTION
L7	12.51	S48°52'02"E	FACE OF CURB
L8	70.50	S64°31'37"E	FACE OF CURB
L9	19.05	S04°31'37"E	FACE OF CURB
L10	3.46	S64°31'37"E	FACE OF CURB
L11	17.90	S04°31'37"E	FACE OF CURB
L12	177.66	S64°31'37"E	FACE OF CURB
L13	14.84	S30°36'02"E	FLOWLINE
L14	174.78	S64°31'37"E	FLOWLINE

CURVE	RADIUS	DELTA	LENGTH	DESCRIPTION
C5	15.00'	15°39'35"	4.10'	FACE OF CURB
C6	1.00'	60°00'00"	1.05'	FACE OF CURB
C7	1.00'	120°00'00"	2.09'	FACE OF CURB
C8	30.00'	33°55'32"	12.76'	FACE OF CURB
C9	30.00'	33°55'35"	12.76'	FACE OF CURB



DESIGNED	BY	DATE
DRAWN	BY	
CHECKED	BY	
APPROVED	BY	

PROJECT NAME: SCHOEN PARK MODIFICATIONS
 DRAWING NAME: CONSTRUCTION PLAN STA. 12+00 TO 14+00
 COUNTY OF MARIN, CALIFORNIA

CITY OF SAN RAFAEL
 DEPARTMENT OF PUBLIC WORKS

SCALE: 1"=10'
 DATE: SEPTEMBER 2020
 CITY PROJECT NO.: 11363
 SHEET NO.: CP02
 DRAWING: 8 OF 10

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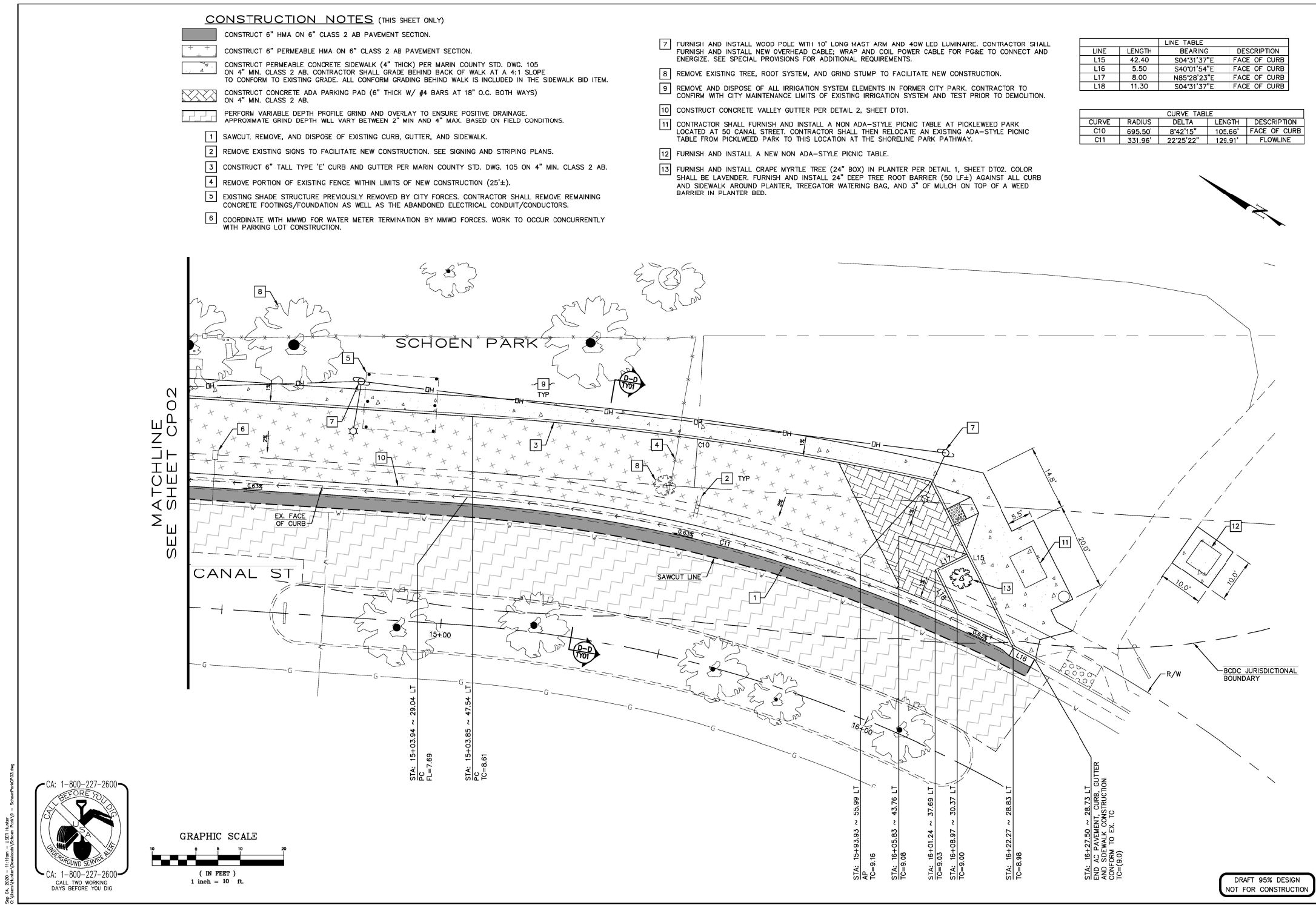
Sources: City of San Rafael Department of Public Works, WRA | Prepared By: njander, 6/26/2020

Figure 9. Construction Plan STA 12+00 to 14+00

Schoen Park Modifications Project
 San Rafael, Marin County, California



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CHECKED	A.M.	
APPROVED		

PROJECT NAME: SCHOEN PARK MODIFICATIONS
DRAWING NAME: CONSTRUCTION PLAN STA. 14+00 TO 16+00
SAN RAFAEL COUNTY OF MARIN CALIFORNIA

CITY OF SAN RAFAEL
DEPARTMENT OF PUBLIC WORKS

SCALE: 1"=10'
DATE: SEPTEMBER 2020
CITY PROJECT NO.: 11363
SHEET NO.: CPO3
DRAWING: 5 OF 10

Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

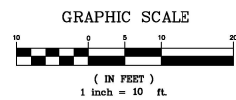
Figure 10. Construction Plan 14+00 to 16+00

Schoen Park Modifications Project
San Rafael, Marin County, California

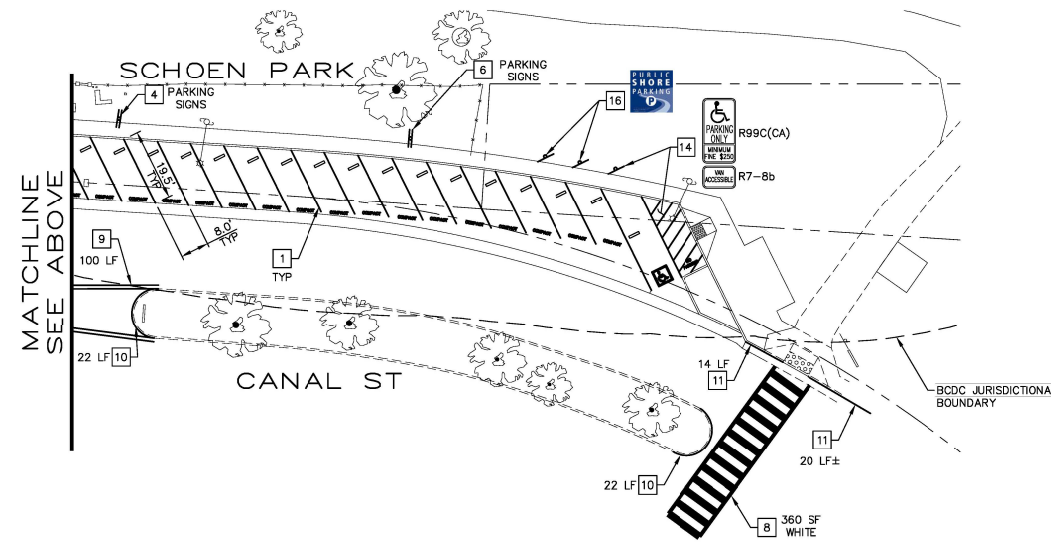
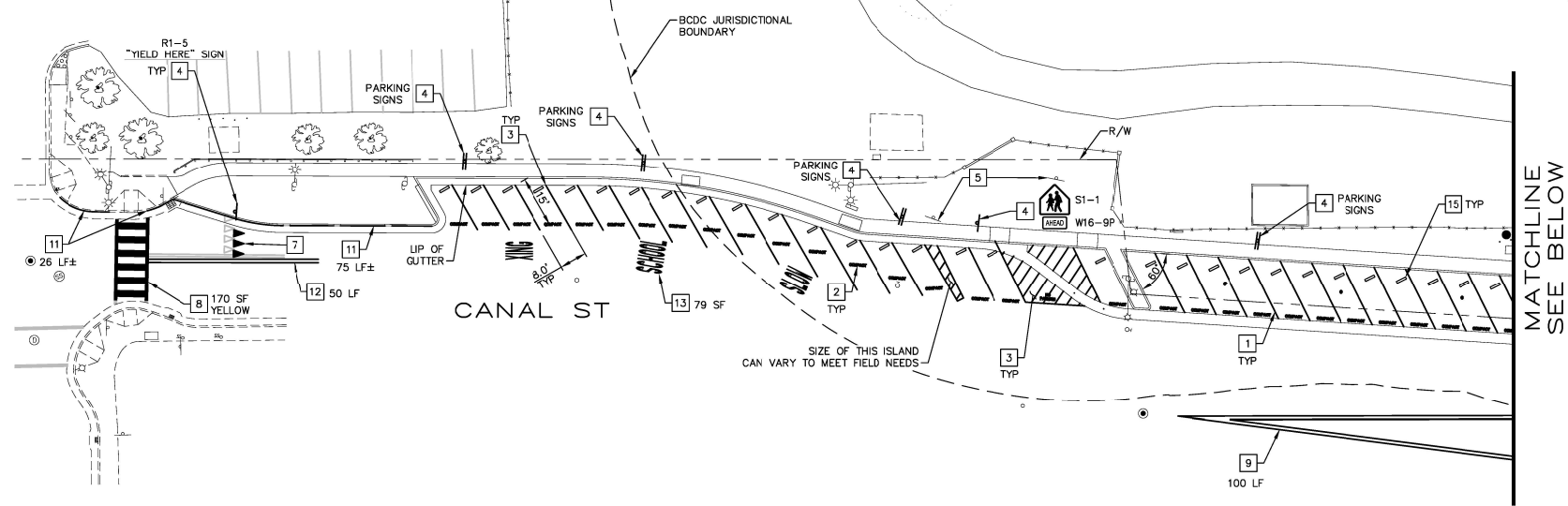


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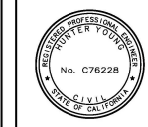


SIGNING AND MARKING NOTES (THIS SHEET ONLY)

- 1 INSTALL 4" WHITE THERMOPLASTIC STRIPE.
- 2 INSTALL "COMPACT" OR "NO PARKING" IN WHITE THERMOPLASTIC WITH 12" HIGH LETTERING. ALL PARKING STALLS ARE COMPACT STALLS.
- 3 INSTALL 4" WHITE THERMOPLASTIC STRIPE 3' O.C.
- 4 INSTALL RELOCATED SIGN(S) ON NEW POST; INSTALL NEW POST PER CITY DETAIL IN APPENDIX.
- 5 EXISTING SIGN AND POST TO REMAIN.
- 6 INSTALL CITY-FURNISHED SIGNS ON NEW POST PER CITY DETAIL IN APPENDIX.
- 7 INSTALL YIELD LINE 'SHARK TEETH' PER CALTRANS STD. PLAN A24E.
- 8 REFRESH EXISTING CROSSWALK WITH THERMOPLASTIC MARKING. COLOR PER PLAN.
- 9 REFRESH EXISTING DETAIL 29 STRIPE PER CALTRANS STD. PLAN A20B.
- 10 REFRESH EXISTING YELLOW CURB.
- 11 REFRESH EXISTING RED CURB.
- 12 INSTALL DETAIL 22 STRIPE PER CALTRANS STD. PLAN A20A.
- 13 INSTALL/REFRESH 'SLOW SCHOOL XING' PAVEMENT MARKINGS PER CALTRANS STD. PLAN A24D.
- 14 INSTALL ACCESSIBLE PARKING STALL MARKINGS AND SIGNAGE PER CALTRANS STD. PLAN A90A.
- 15 FURNISH AND INSTALL 36" LONG WHEEL STOP IN EACH PARKING STALL.
- 16 FURNISH AND INSTALL BCDC-APPROVED 'PUBLIC SHORE PARKING' SIGNS (2 TOTAL) ON NEW POSTS; INSTALL NEW POSTS PER CITY DETAIL IN APPENDIX.

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NOT FOR CONSTRUCTION

DESIGNED	H.Y.	BY	DATE
DRAWN	H.Y.		
CHECKED	H.Y.		
APPROVED	A.M.		
PROJECT NAME		DATE	
SCHOEN PARK MODIFICATIONS		CALIFORNIA	
DRAWING NAME		COUNTY OF MARIN	
SIGNING AND MARKING PLAN		SAN RAFAEL	



CITY OF SAN RAFAEL
DEPARTMENT OF PUBLIC WORKS



SCALE: 1"=10'
DATE: SEPTEMBER 2020
CITY PROJECT NO.: 11363
SHEET NO.: SN01
DRAWING: 10 OF 10

Sources: City of San Rafael Department of Public Works , WRA | Prepared By: njander, 6/26/2020

Figure 11. Signage and Marking Plan

Schoen Park Modifications Project
San Rafael, Marin County, California



Staging and Access

The City of San Rafael construction contract specifications would require the construction Contractor to locate the construction staging area on-site. The specifications for this staging area would include, at minimum, the following requirements:

- The staging area will be included in the Contractor's Stormwater Pollution Prevention Plan (SWPPP).
- The staging area will not be located in an environmentally or culturally sensitive area and/or impact water resources (rivers, streams, bays, inlet, lakes, drainage sloughs).
- The staging area will not affect access to properties or roadways.

As this is a City run project, contractors have been allowed to store materials both on and off site. The staging area for the proposed project would be located within the project footprint where Canal Street merges with Spinnaker Point Drive.

Construction

Construction of the proposed project would last for approximately three months. All activities would occur within the existing City right-of-way or on City owned parklands. Construction would require a small to medium size excavator, one skidsteer, two 10-wheeler dump trucks, one 5-ton vibratory roller, one asphalt paving machine, four contractor pick-up trucks, and one small boom truck/crane. The total footprint of all permanent and temporary impacts from the parking area construction with its associated sidewalk, wooden retaining wall, and bioretention basin, as well as installation of new picnic tables, is approximately 27,492 square feet.

At least one week prior to the commencement of work, the Contractor would provide project information signs to notify drivers of the upcoming project and potential traffic delays. Additionally, the City or its contractor would notify and coordinate with law enforcement and emergency service providers prior to the start of construction to ensure minimal disruption to service during construction.

The Bay Area Air Quality Management District (BAAQMD) recommends basic construction measures to ensure minimal impacts on regional air quality. The contractor would be responsible for implementing the following basic measures during construction:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas) will be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site will be covered.
- All visible mud or dirt track-out onto adjacent public roads will be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations).
- Clear signage will be provided for construction workers at all access points.

- All construction equipment will be maintained and properly tuned in accordance with manufacturer's specifications, and all equipment will be checked by a certified visible emissions evaluator.
- A publicly visible sign with the telephone number and person to contact at the lead agency regarding any dust complaints will be posted in or near the project site. The contact person will respond to complaints and take corrective action within 48 hours. The Air District's phone number will also be visible to ensure compliance with applicable regulations.

Grading

An estimated total of 650 CY will be removed from the site. Fill will be immediately transported off-site upon excavation.

Parking

The proposed project will add 20 new parking spaces on-site, one of which will be ADA compliant, in addition to the existing 26 parking spaces. Construction vehicles would park in the staging area.

Traffic

Traffic control would conform to the California Manual on Uniform Traffic Control Devices (CAMUTCD), as well as City standard specifications. A single lane closure is expected during work hours. The Contractor would install advance warning signs to alert pedestrians and bicyclists of the work zone. Advance warning signs may be reflective signs, changeable message boards, cones, and/or barricades. The work would be limited to 7:00 A.M. to 5:00 P.M., Monday through Friday, unless otherwise approved in writing by the Director of Public Works. Work on Saturdays between 7:00 A.M. to 5:00 P.M. may be necessary to complete the project before any nesting season begins.

Utilities

The project site includes a PG&E utility pole and a Marin Municipal Water District water meter. The utility pole would remain unaltered while the water meter will be removed.

Tree Loss

Five trees would be removed during the construction of the on-street parking area. Standard avoidance and minimization measures would be implemented to ensure the project complies with all applicable City regulations regarding tree removal.

8. Other Public Agencies Whose Approval May Be Required:

The information contained in this Initial Study will be used by the City of San Rafael (the California Environmental Quality Act [CEQA] Lead Agency) as it considers whether or not to approve the proposed project. If the project is approved, the Initial Study, as well as the associated Mitigated Negative Declaration (MND) would be used by the City and responsible and trustee agencies in conjunction with various approvals and permits. These actions include, but may not be limited to, the following approvals by the agencies indicated:

City of San Rafael

- City Council Approval

San Francisco Bay Conservation and Development Commission

- McAteer-Petris Act, San Francisco Bay Plan

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is potentially significant unless mitigation is incorporated, as indicated by the checklist on the following pages.

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Greenhouse Gas	<input type="checkbox"/>	Public Services
<input type="checkbox"/>	Agricultural Resources	<input type="checkbox"/>	Hazards/Hazardous	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Air Quality	<input type="checkbox"/>	Hydrology/Water	<input type="checkbox"/>	Transportation
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Land Use/Planning	<input checked="" type="checkbox"/>	Tribal Cultural Resources
<input checked="" type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Utilities and Service Systems
<input type="checkbox"/>	Energy	<input checked="" type="checkbox"/>	Noise	<input type="checkbox"/>	Wildfire
<input type="checkbox"/>	Geology/Soils	<input type="checkbox"/>	Population/Housing	<input checked="" type="checkbox"/>	Mandatory Findings of Significance

Determination:

On the basis of this initial evaluation:

- I find that the project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.
- I find that although the project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the project MAY have a "Potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature: 

Date: July 7, 2021

Name/Title: Theo Sanchez, Associate Civil Engineer, City of San Rafael Department of Public Works

INITIAL STUDY CHECKLIST

This section describes the existing environmental conditions in and near the project area and evaluates environmental impacts associated with the proposed project. The environmental checklist, as recommended in the CEQA Guidelines (Appendix G), was used to identify environmental impacts that could occur if the proposed project is implemented. The right-hand column in the checklist lists the source(s) for the answer to each question. The cited sources are identified at the end of this section.

Each of the environmental categories was fully evaluated, and one of the following four determinations was made for each checklist question:

- **“No Impact”** means that no impacts to the resource would occur as a result of implementing the project.
- **“Less than Significant Impact”** means that implementation of the project would not result in a substantial and/or adverse change to the resource, and no mitigation measures are required.
- **“Less than Significant with Mitigation Incorporated”** means that the incorporation of one or more mitigation measures is necessary to reduce the impact from potentially significant to less than significant.
- **“Potentially Significant Impact”** means that there is either substantial evidence that a project-related effect may be significant, or, due to a lack of existing information, could have the potential to be significant.

I. AESTHETICS — Except as provided in Public Resources Code Section 21099, would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2, 3

Environmental Setting

Aesthetic resources are often referred to as visual resources because these resources are often plainly visible to the general public. Certain high-quality visual resources are protected such as those in parklands, ridgelines, scenic vistas, and scenic highways. A Scenic Vista is typically defined as a broad panoramic overview of a landscape, often from an elevated perspective, that can be viewed by the public.¹ Highways or roadways are listed by the California Department of Transportation (Caltrans), or by local jurisdictions and counties as state or county Scenic Highways.² Visual character or quality is the arrangement of all visual features (i.e., anything

¹ California Department of Transportation, "Landscape Architecture and Community Livability," accessed January 2, 2020, <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability>.

² California Department of Transportation, "Scenic Highways – Frequently Asked Questions," accessed January 2, 2020, <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways/lap-liv-i-scenic-highways-faq2>.

visible, such as trees, hills, houses, sky, water, towers, roads, power lines, etc.) in a view.³ The arrangement of visible features on the ground produces the visual character of a site and its surroundings.

There are no designated scenic highways in Marin County. Portions of Highway 101, State Route (SR) 1, and SR-37 are eligible for listing⁴. The project site is not located along any eligible portion of these highways. The San Rafael General Plan Community Design Element, Policy CD-5 states that new construction should, “Respect and enhance to the greatest extent possible, views of the Bay and its islands, Bay Wetlands, St. Raphael’s church bell tower, Canalfront, marinas, Mt. Tamalpais, Marin Civic Center and hills and ridgelines from public streets, parks and publicly accessible pathways.” The proposed parking area is beneath a berm on the top of which there are extensive views of Bay Wetlands at Tiscornia Marsh. However, the berm is not located within the area of disturbance. All work will be conducted below the berm, so views of the Bay will not be affected.

Existing land uses adjacent to the project site consist of residential, park, and conservation. The San Francisco Bay Trail runs along the San Rafael Bay directly adjacent to the northeast of the site. The trail is on top of the berm mentioned above. Trail goers will be able to see into the project site, but the site will not impede views of the Bay. Community members utilizing the Albert J. Boro Community Center directly to the northwest of the site will be able to view project activities. Residents in the homes on the southern side of Canal Street opposite the project site will mostly have their view of the site obscured by tall vegetation. Homes along Portsmouth Cove may potentially view the site. Motorists will be able to view the project site as the site is directly adjacent to and includes sections of Canal Street. Existing sources of nighttime light in the project area include vehicle headlights, residential security lighting, and street lamps on the southern edge of Canal Street. Existing sources of glare are mainly limited to automobile windshields and reflective building materials.

Discussion of Impacts

- a) **Less than Significant Impact.** The scenic vista from the San Francisco Bay Trail which is directly adjacent to the project site will be temporarily impacted by project activities. While views of the Bay will not be obstructed by project activities, the addition of construction equipment adjacent to the trail might temporarily detract from the scenic view. Since cars currently park along the street, the presence of additional cars as a result of

³ U.S. Department of Transportation, Federal Highway Administration, “Guidelines for the Visual Impact Assessment of Highway Projects,” January 2015, https://www.environment.fhwa.dot.gov/env_topics/other_topics/VIA_Guidelines_for_Highway_Projects.aspx#chap54.

⁴ California Department of Transportation, “List of Officially Designated County Scenic Highways,” July 2019, <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>. Accessed June 19, 2020.

increased parking spaces will not change the visual character of the sight in the long term. Since the view will only be temporarily affected, the impact will be less than significant.

- b) **Less than Significant Impact.** Five trees will be removed in order to convert the underutilized park into on-street parking. One new tree will be planted during the parking area construction. However, since the project area is not within a state scenic highway, there will be no impact.
- c) **Less than Significant Impact.** There is the potential for temporary impacts to the existing visual quality of the surrounding area during construction and long term impacts due to tree removal. Potential public views of the project site come from motorists traveling on Canal Street and people utilizing the San Francisco Bay Trail. Recreationists using the Bay Trail will be able to view the project site since the trail is elevated above the site. Construction equipment will not block views of the Bay for recreationists. Temporary visual impacts could therefore result from the presence of construction vehicles or ground disturbance during project construction activities. However, construction activities would be temporary. The permanent development of the site would transform the area from parkland into parking spaces. The current park area does not support vegetation other than the trees that will be removed. None of the vegetation that comprises the marsh habitat around the Bay Trail would be affected by project activities. The visual character of the parking area will be consistent with that of Canal Street. The proposed parking area does not consist of, nor would it block, any of the City-designated scenic views as described in the San Rafael General Plan. Impacts would be less than significant.
- d) **Less than Significant Impact.** Construction of the proposed project would not create a significant source of light or glare during daytime. Three new street lamps will be installed to light the new parking area. Currently there are operational street lamps on the southern side of Canal Street. The proposed additional street lamps will provide more illumination to the street, but will be in keeping with the aesthetic quality of the neighborhood. Additionally, headlights from cars pulling into the parking spaces will provide a new light source impacting a different angle than cars passing by on the street. The levee that protects Canal Street from inundation from the marsh will provide a light barrier. Light from the car headlights will not intrude into the marsh. This will allow nighttime views of the scenic marsh to be maintained. The impact of the additional street lamps and headlights would be less than significant.

II. AGRICULTURAL AND FORESTRY RESOURCES — In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	5
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2, 4
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

e) Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use??	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 2
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Environmental Setting

The project site does not contain any farmland or forestry land and is not designated for agricultural or forestry uses or Prime, Statewide, or Locally Important Farmland (California Department of Conservation, 2020). The proposed project is located in residential and commercial areas and follows existing roads. Surrounding land is developed with residential, park, and conservation uses.

Discussion of Impacts

a-e) **No Impact.** There are no agricultural or forestry resources within the project site. There are no Prime, Unique, Statewide or Locally Important farmlands in the area. The project site is not under a Williamson Act Contract, nor is the project zoned as forest land or timber production. The project would be confined nearly entirely to the existing park footprint and all work and staging would take place on City of San Rafael land. No impacts to agricultural or forestry resources would occur.

III. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11
d) Result in other emissions (such as those leading to odors) affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11

Environmental Setting

The project site is in the San Francisco Bay Area air basin, where air quality is monitored and regulated by the Bay Area Air Quality Management District (BAAQMD). Ambient concentrations of key air pollutants in the Bay Area have decreased considerably over the course of the last several decades. Air pollution is generated by anything that burns fuel (including but not limited to cars and trucks, construction equipment, backup generators, boilers and hot water heaters, barbeques and broilers, gas-fired cooking ranges and ovens, fireplaces, and wood-burning stoves), almost any evaporative emissions (including the evaporation of gasoline from service stations and vehicles, emissions from food as it is cooked, emissions from paints, cleaning solvents, and adhesives, etc.), and other processes (fugitive dust generated from roadways and construction activities, etc.).

A sensitive receptor is generally defined as a location where human populations, especially children, seniors, and sick persons, are located where there is a reasonable expectation of continuous human exposure to air pollutants. These typically include residences, hospitals, and schools. The site is surrounded by residential, park, and conservation land uses.

The Bay Area is currently classified as “attainment” or “unclassifiable” with respect to every National Ambient Air Quality Standard (NAAQS) except ozone and fine particulate matter PM_{2.5},

for which it is still classified as “nonattainment”⁵. Ozone concentrations in the Bay Area have also decreased considerably over the last several decades, but NAAQS are required to be set to be protective of public health “allowing an adequate margin of safety” and have also become more stringent. Prior to 2008, attaining the ozone NAAQS required that the “design value” --i.e., the peak 8-hour average concentration on the 4th-worst day of the year (averaged over three consecutive years) --be below 0.08 parts per million (ppm); the Bay Area was classified as “marginal” nonattainment with respect to that standard.⁶ In 2015, the ozone NAAQS was revised to 0.070 ppm. The Bay Area has not met this standard.

The State of California also has its own ambient air quality standards (CAAQS) which are equivalent to or more stringent than the NAAQS; the Bay Area is currently classified as nonattainment with respect to the CAAQS for ozone, particulate matter smaller than 10 microns (PM₁₀), and “fine” particulate matter smaller than 2.5 microns (PM_{2.5}).⁷

Discussion of Impacts

- a) **Less Than Significant Impact.** Construction activities would result in short-term increases in emissions from the use of heavy equipment that generates dust, exhaust, and tire-wear emissions; soil disturbance; materials used in construction; and construction traffic. Project construction would produce fugitive dust (PM₁₀ and PM_{2.5}) during ground disturbance and would generate carbon monoxide, ozone precursors, and other emissions from vehicle and equipment operation. BAAQMD released a Clean Air Plan for the Bay Area in 2010, which would be the applicable air quality plan for the proposed project. Best management practices (BMPs) recommended by BAAQMD and identified in the project construction plans would be implemented during construction to minimize fugitive dust. Parking area development activities would mainly take place within an existing developed or disturbed footprint. Construction emissions would be temporary, lasting approximately three months, and would not have long-term effects on air quality in the Bay Area. Because of the small area of disturbance, temporary nature of the emissions, and implementation of construction measures, impacts on air quality would be less than significant and would comply with the Bay Area 2010 Clean Air Plan.
- b) **Less Than Significant Impact.** As discussed under item a), the project would result in minor construction-related emissions. It would not result in a cumulatively considerable net increase of any criteria pollutant. The additional vehicles in the area when the parking

⁵ Bay Area Air Quality Management District (BAAQMD), 2017a. *Air Quality Standards and Attainment Status*. Available at <https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>. Last Updated January 5, 2017. Accessed June 2020.

⁶ The Bay Area Air Quality Management reported that the maximum 8-hour ozone concentration only exceeded the standard once in 2005 and once in 2007, but exceeded the standard on 12 days in 2006.

⁷ Bay Area Air Quality Management District (BAAQMD), 2017a. *Air Quality Standards and Attainment Status*. Available at <https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>. Last Updated January 5, 2017. Accessed June 2020.

lot is functional will not result in a considerable increase in pollutants. The cars that will be parking at the site are not additional cars to the area. The parking lot is aiming to solve parking congestion in other areas of the City. The parking improvements will only be redistributing cars within the City. The project would cause short-term air quality impacts as a result of construction activities; however, it would not result in long-term or cumulatively considerable increases in air quality pollutant emissions for which the Bay Area is currently in non-attainment (ozone and particulate matter). Implementation of BAAQMD BMPs would ensure that the temporary increase in air pollutant emissions associated with construction activities would result in less than significant contributions to cumulative pollutant levels in the region.

- c) **Less Than Significant Impact.** The primary sensitive receptors in the vicinity are residents, which may include children, elderly people, or people with respiratory illnesses. Sensitive receptors located in close proximity to several locations adjacent to the construction area could be exposed to temporary air pollutants from construction activities, such as fugitive dust, ozone precursors, and carbon monoxide. The duration of construction activities would be limited. Basic construction measures recommended by BAAQMD would be implemented during construction to minimize air pollutants. New construction equipment has been subject to increasingly stringent emissions requirements at the Federal level (e.g., 40 CFR 89 and 1039), designated “Tier 1”, “Tier 2”, “Tier 3”, etc.; older construction equipment is subject to potential retrofit requirements required by the State of California (13 CCR 2449, 13 CCR 2450-2466, and 17 CCR 93116). As a result, sensitive receptors in the vicinity of the project would not be exposed to substantial pollutant concentrations, and impacts would be less than significant.
- d) **Less Than Significant Impact.** Construction activities would involve the use of gasoline or diesel-powered equipment that emits exhaust fumes. These activities would take place intermittently throughout the workday, and the associated odors are expected to dissipate within the immediate vicinity of the work area. Persons near the construction work area may find these odors objectionable. However, the proposed project would not include uses that have been identified by BAAQMD as potential sources of objectionable odors, such as restaurants, manufacturing plants, landfills, and agricultural and industrial operations. The infrequency of the emissions, rapid dissipation of the exhaust and other odors into the air, and short-term nature of the construction activities would result in less-than-significant odor impacts. The impact of cars parking in the additional spaces will also produce a less than significant impact. Currently, cars park along Canal Street and travel through the area. The increase in odor from the few additional cars will be negligible.

IV. BIOLOGICAL RESOURCES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, 6
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

Regulatory Setting

Special-Status Species

Special-status species that require evaluation in CEQA documentation include those plants and wildlife species that have been formally listed, are proposed as endangered or threatened, or are candidates for such listing under the Federal Endangered Species Act (ESA) or California Endangered Species Act (CESA). These acts afford protection to both listed species and those that are formal candidates for listing. The federal Bald and Golden Eagle Protection Act also provides broad protections to both eagle species that are roughly analogous to those of listed species. Additionally, CDFW Species of Special Concern, CDFW California Fully Protected species, USFWS Birds of Conservation Concern, and CDFW Special-status Invertebrates are all considered special-status species. Bat species are also evaluated for conservation status by the Western Bat Working Group (WBWG), a non-governmental entity; bats named as a “High Priority” or “Medium Priority” species for conservation by the WBWG are typically considered special-status and also considered under CEQA. In addition to regulations for special-status species, most native birds in the United States (including non-status species) are protected by the Migratory Bird Treaty Act of 1918 (MBTA) and the California Fish and Game Code (CFGC), i.e., sections 3503, 3503.5 and 3513. Under these laws, deliberately destroying active bird nests, eggs, and/or young is illegal.

Plant species included within the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants (Inventory) with California Rare Plant Rank (Rank) of 1 and 2 are also considered special-status plant species and must be considered under CEQA. Very few Rank 3 or Rank 4 plant species meet the definitions of Section 1901 Chapter 10 of the Native Plant Protection Act or Sections 2062 and 2067 of the CDFW Code that outlines CESA. However, CNPS and CDFW strongly recommend that these species be fully considered during the preparation of environmental documentation relating to CEQA. This may be particularly appropriate for the type locality of a Rank 4 plant, for populations at the periphery of a species range or in areas where the taxon is especially uncommon or has sustained heavy losses, or from populations exhibiting unusual morphology or occurring on unusual substrates.

Sensitive Biological Communities

Sensitive biological communities include habitats that fulfill special functions or have special values, such as wetlands, streams, or riparian habitat. These habitats are protected under federal regulations such as the Clean Water Act; state regulations such as the Porter-Cologne Act, the CDFW Streambed Alteration Program, and CEQA; or local ordinances or policies such as city or county tree ordinances, Special Habitat Management Areas, and General Plan Elements.

Waters of the United States

The U.S. Army Corps of Engineers (Corps) regulates “Waters of the United States” under Section 404 of the Clean Water Act. Waters of the U.S. are defined in the Code of Federal Regulations (CFR) as waters susceptible to use in commerce, including interstate waters and wetlands, all

other waters (intrastate waterbodies, including wetlands), and their tributaries (33 CFR 328.3). Potential wetland areas, according to the three criteria used to delineate wetlands as defined in the Corps of Engineers Wetlands Delineation Manual (Environmental Laboratory 1987), are identified by the presence of (1) hydrophytic vegetation, (2) hydric soils, and (3) wetland hydrology. Areas that are inundated at a sufficient depth and for a sufficient duration to exclude growth of hydrophytic vegetation are subject to Section 404 jurisdiction as “other waters” and are often characterized by an ordinary high water mark (OHWM). Other waters, for example, generally include lakes, rivers, and streams. The placement of fill material into Waters of the U.S generally requires an individual or nationwide permit from the Corps under Section 404 of the Clean Water Act.

Waters of the State

The term “Waters of the State” is defined by the Porter-Cologne Act as “any surface water or groundwater, including saline waters, within the boundaries of the state.” The Regional Water Quality Control Board (RWQCB) protects all waters in its regulatory scope and has special responsibility for wetlands, riparian areas, and headwaters. These waterbodies have high resource value, are vulnerable to filling, and are not systematically protected by other programs. RWQCB jurisdiction includes “isolated” wetlands and waters that may not be regulated by the Corps under Section 404. Waters of the State are regulated by the RWQCB under the State Water Quality Certification Program which regulates discharges of fill and dredged material under Section 401 of the Clean Water Act and the Porter-Cologne Water Quality Control Act. Projects that require a Corps permit, or fall under other federal jurisdiction, and have the potential to impact Waters of the State, are required to comply with the terms of the Water Quality Certification determination. If a proposed project does not require a federal permit, but does involve dredge or fill activities that may result in a discharge to Waters of the State, the RWQCB has the option to regulate the dredge and fill activities under its state authority in the form of Waste Discharge Requirements.

San Francisco Bay and Shoreline

The San Francisco Bay Conservation and Development Commission (BCDC) has regulatory jurisdiction, as defined by the McAteer-Petris Act, over the Bay and its shoreline, which generally consists of the area between the shoreline and a line 100 feet landward of and parallel to the shoreline. Within the Project Area, BCDC has two areas of jurisdiction: San Francisco Bay and the Shoreline Band. Definitions of these areas, as described in the McAteer-Petris Act (PRC Section 66610), are given below.

San Francisco Bay: all areas that are subject to tidal action from the south end of the Bay to the Golden Gate (Point Bonita-Point Lobos) and to the Sacramento River line (a line between Stake Point and Simmons Point, extending northeasterly to the mouth of Marshall Cut), including all sloughs, and specifically, the marshlands lying between mean high tide and five feet above mean sea level;

tidelands (land lying between mean high tide and mean low tide); and submerged lands (land lying below mean low tide).

Shoreline Band: all territory located between the shoreline of San Francisco Bay as defined above and a line 100 feet landward of and parallel with that line, but excluding any portions of such territory which are included in other areas of BCDC jurisdiction, provided that the Commission may, by resolution, exclude from its area of jurisdiction any area within the shoreline band that it finds and declares is of no regional importance to the Bay.

Other Sensitive Biological Communities

Other sensitive biological communities not discussed above include habitats that fulfill special functions or have special values. Natural communities considered sensitive are those identified in local or regional plans, policies, regulations, or by the CDFW; formerly the California Department of Fish and Game [CDFG]). The CDFW ranks sensitive communities as "threatened" or "very threatened" and keeps records of their occurrences in its California Natural Diversity Database (CNDDDB).⁸ Sensitive plant communities are also identified by CDFW (CDFG 2003, 2007, 2009). CNDDDB vegetation alliances are ranked 1 through 5 based on NatureServe's (2010) methodology, with those alliances ranked globally (G) or statewide (S) as 1 through 3 considered sensitive. Impacts to sensitive natural communities identified in local or regional plans, policies, or regulations or those identified by the CDFW or U.S. Fish and Wildlife Service (USFWS) must be considered and evaluated under CEQA (CCR Title 14, Div. 6, Chap. 3, Appendix G). Specific habitats may also be identified as sensitive in city or county general plans or ordinances.

Environmental Setting

The proposed project footprint, as described in the Project Description, encompasses the area where planned activities would occur, including the existing extent of Schoen Park and sections of the northern side of Canal Street. The project area is a 0.79-acre area situated at the base of a slope created from infill that was placed between 1968 and 1987 (Historical Aerials 2018⁹). The entire area was diked in the mid 1950's.

The project footprint is located between the paved portion of Canal Street on ruderal vegetation on the infill soil that occurs below a berm separating the developed area from the naturally occurring muted salt marsh vegetation within the diked baylands. The majority of the project area is composed of biological communities typically located on degraded or impacted natural areas, a result of past and present disturbance including maintenance of park infrastructure (mowing and other vegetation disturbance), infill, and the effects of urbanization. The biological

⁸ *California Department of Fish and Wildlife, 2020. California Natural Diversity Data Base (CNDDDB). RareFind 5. Natural Heritage Division, California Department of Fish and Game. Sacramento, California. Accessed: July 2020.*

⁹ *Historical Aerials. 2018. Available at: <https://www.historicaerials.com/>*

communities present in the area are developed and ruderal/non-native. Developed areas consist of the footprint of current recreational equipment, sidewalks, and paved roads in the project area. All other areas are considered to be ruderal/non-native. The ruderal areas are dominated by non-native annual grasses such as wild oat grass (*Avena barbata*) and bare ground. There is evidence of mowing throughout the ruderal area. The project lies within the 100-foot shoreline band under the jurisdiction of BCDC. There are no sensitive biological communities or jurisdictional waters within the project area.

Special-Status Species

Plants

Based upon a review of the resources and databases listed below in the methods section, it was determined that 64 special-status plant species have been documented in the vicinity of the project area. The majority of the project area has been extensively disturbed or is dominated by ruderal/non-native vegetation and developed areas. These communities are unlikely to support special-status plant species due to presence of aggressive non-native annual and perennial plant species which likely preclude special-status plants. Based on assessment of biological communities present within the project area, no special status plants are determined to have potential to occur within it.

Wildlife

Twenty-four special-status species of wildlife have been recorded in the vicinity of the Biological Study Area in the California Natural Diversity Database.¹⁰ Twenty-two of the species have little to no potential to occur within the project area due to lack of suitable habitat. The remaining species, salt marsh harvest mouse (*Reithrodontomys raviventris*), California ridgway's rail (*Rallus obsoletus obsoletus*), and California black rail (*Laterallus jamaicensis coturniculus*) have a potential to occur in the marshlands adjacent to the project site, but not within the site itself. All of these species have been sited within a mile of the project site (Figure 12). The species with potential to occur nearby are discussed further below. Nesting birds also have the potential to occur within the project area.

Salt marsh harvest mouse; Federal Endangered Species, State Endangered, CDFW Fully Protected Species. The salt-marsh harvest mouse (SMHM) is a relatively small rodent found only in suitable salt and brackish marsh habitat in the greater San Francisco Bay, San Pablo Bay, and Suisun Bay areas. This species has been divided into two subspecies: the northern SMHM (*Reithrodontomys raviventris halicoetes*) which lives in the brackish marshes of the San Pablo and Suisun bays, and the southern SMHM (*R. r. raviventris*) which is found in the marshes of San Francisco Bay. The project area occurs near the presumed boundary between the northern and subspecies, likely within the range of the southern subspecies, though the exact location of the

¹⁰ California Department of Fish and Wildlife. 2020. California Natural Diversity Data Base (CNDDDB). RareFind 5. Natural Heritage Division, California Department of Fish and Game. Sacramento, California. Accessed: July 2020.

Figure 12. Special-Status Wildlife Species Documented within 2-miles of the Study Area

boundary and whether the two subspecies hybridize are both unknown.¹¹ The southern subspecies generally persists in smaller and more isolated populations relative to the northern subspecies, as most of the marshes of the South San Francisco Bay are narrow, strip-like marshes and thus support fewer SMHM compared to marshes in the northern portions of the species' range.¹² Northern marshes also tend to be more brackish, and have a more diverse assemblage of vegetation, thus the northern subspecies is more likely to occur in habitats that are not dominated by pickleweed, which dominates habitat in the southern range.¹³

The SMHM was last recorded within a mile of the project area in 1995.¹⁴ The pickleweed vegetation that the species requires is not found within the project area, but is found in the marsh directly to the north of the project area. The SMHM is unlikely to make its primary home in the project area, but it could pass through the area while moving among suitable habitat areas.

California Ridgway's (clapper) rail (*Rallus obsoletus obsoletus*), Federal Endangered, State Endangered, CDFW Fully Protected Species. The California Ridgway's rail (CRR), formerly known as California clapper rail (*R. longirostris obsoletus*), is the resident Ridgway's/clapper rail subspecies of northern and central California. Although more widespread in the past, it is currently restricted to the San Francisco Bay estuary. The California Ridgway's rail occurs only within salt and brackish marshes. According to Harvey (1988), Shuford (1993) and Eddleman and Conway (1998), important California Ridgway's rail habitat components are: 1) well-developed tidal sloughs and secondary channels; 2) beds of cordgrasses (*Spartina* spp.) in the lower marsh zone; 3) dense salt marsh vegetation for cover, nest sites, and brooding areas; 4) intertidal mudflats, gradually sloping banks of tidal channels, and cordgrass beds for foraging; 5) abundant invertebrate food resources; and 6) transitional vegetation at the marsh edge to serve as a refuge during high tides. In south and central San Francisco Bay and along the perimeter of San Pablo Bay, California Ridgway's rail typically inhabits salt marshes dominated by pickleweed and cordgrasses. Brackish marshes supporting California Ridgway's rail occur along major sloughs and rivers of San Pablo Bay and along tidal sloughs of Suisun Marsh. Nesting occurs from March through July, with peak activity in late April to late May (DeGroot 1927, Harvey 1980, Harvey 1988). California Ridgway's rail nests, constructed of wetland vegetation and platform-

¹¹ Smith, Katherine R, Melissa K Riley, Laureen Barthman–Thompson, Mark J Statham, Sarah Estrella, and Douglas Kelt. 2018. Towards Salt Marsh Harvest Mouse Recovery: Research Priorities. *San Francisco Estuary and Watershed Science* 16, no. 2.

¹² U.S. Fish and Wildlife Service. 2010. Five Year Review for the Salt Marsh Harvest Mouse (*Reithrodontomys raviventris*). U.S. Fish and Wildlife Service. Sacramento, CA.

¹³ Smith, Katherine R, Melissa K Riley, Laureen Barthman–Thompson, Isa Woo, Mark J Statham, Sarah Estrella, and Douglas A Kelt. 2018. Towards Salt Marsh Harvest Mouse Recovery: A Review. *San Francisco Estuary and Watershed Science* 16, no. 2.

¹⁴ California Department of Fish and Wildlife. 2020. California Natural Diversity Data Base (CNDDDB). RareFind 5. Natural Heritage Division, California Department of Fish and Game. Sacramento, California. Accessed: July 2020.

shaped, are placed near the ground in clumps of dense vegetation, usually in the lower marsh zone near small tidal channels (DeGroot 1927, Evens and Page 1983, Harvey 1988).

The project area does not contain tidal wetland vegetation to support California Ridgway's rail. However, Tiscornia Marsh, directly north of the project area, contains wetland vegetation consisting primarily of *Spartina* that experiences heavy tidal influence and at low tide provides suitable foraging habitat for California Ridgway's rail. The vast majority of the marsh within 700 feet (the standard California Ridgway's rail nesting disturbance threshold) of the Study Area is low-lying and receives regular inundation with the tides. Additionally, there are few upland areas above the tide line to support nesting, and these areas generally do not contain wetland vegetation or provide much cover to support nesting.

California black rail; State Threatened, CDFW Fully Protected Species, USFWS Bird of Conservation Concern. The California black rail is the resident black rail subspecies that occurs in California coastal salt and brackish marshes from Bodega Bay to Morro Bay, with additional populations known from freshwater marshes near or in the northern Sierra Nevada foothills.¹⁵¹⁶ According to a published analysis by Spautz et al. (2005), important habitat elements for this species within the San Francisco Bay estuary are: 1) emergent marsh dominated by pickleweed (*Salicornia pacifica*), marsh gumplant (*Grindelia stricta*), bulrush (*Scirpus maritimus*), rushes (*Juncus* spp.), and/or cattails (*Typha* spp.); 2) high density of vegetation below four inches in height; 3) high marsh elevation with transitional upland vegetation; 4) large total area of contiguous marsh; 5) proximity to a major water source; and, 6) isolation from disturbance. This species feeds primarily on invertebrates. Black rails are extremely secretive and very difficult to glimpse or flush; identification typically relies on voice. Nests are placed on the ground in dense wetland vegetation.

The California black rail was last documented within a mile of the project area in 2012. The project area itself does not support any of the vegetation the species requires for habitat, but many of these plant species are found directly adjacent to the project area in Tiscornia Marsh. There is potential for the black rail to occur in the marsh.

Nesting Birds. Within the Biological Study Area, native birds may nest on the ground, in shrubbery, and in the trees that are slated to be removed. Most native birds have baseline protections under the federal Migratory Bird Treaty Act of 1918 (MBTA) as well as the California Fish and Game Code (CFGC). Under these laws/codes, the intentional killing, collecting or trapping of covered species, including their active nests (those with eggs or young), is

¹⁵ Eddleman, W.R., R.E. Flores and M. Legare. 1994. Black Rail (*Laterallus jamaicensis*), *The Birds of North America Online* (A. Poole, Ed.). Ithaca: Cornell Lab of Ornithology; Retrieved from the *Birds of North America Online*: <http://bna.birds.cornell.edu/bna/species/123>.

¹⁶ Richmond, O.M., J. Tecklin, and S.R. Beissinger. 2008. *Distribution of California Black Rails in the Sierra Nevada Foothills*. *J. of Field Ornithology* 79(4): 381-390.

prohibited.¹⁷ Work in the project area could lead to damage or mortality to nests, or disturbance of adults leading to abandonment of nests.

Methods

Prior to the site visit, background literature was reviewed to determine the potential presence of sensitive vegetation types, aquatic communities, and special-status plant and wildlife species. Resources reviewed for sensitive vegetation communities and aquatic features include aerial photography, mapped soil types, the California Native Plant Society (CNPS) Online Database (2020a¹⁸), the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB, CDFW 2020¹⁹), and the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPac) database (USFWS 2020²⁰). For database queries, the San Rafael and San Quentin 7.5-minute quadrangles were included as the focal search area (USGS 1980²¹).

On May 28, 2020, a WRA biologist conducted a field assessment of the project area to evaluate the potential presence of sensitive vegetation communities and aquatic features and to evaluate on-site habitats to determine the potential for occurrence of special-status plant and wildlife species. Observed plant communities, aquatic features, and plant and wildlife species were noted. Site conditions were noted as they relate to habitat requirements of special-status plant and wildlife species known to occur in the vicinity as determined by the background literature research.

The project area was assessed in terms of potential biological resources impacts on the redevelopment project. This analysis was performed to a level of detail necessary to understand what types of major biological impacts are likely to be associated with the proposed project activities.

Discussion of Impacts

- a) ***Less than Significant with Mitigation Incorporated.*** Noise, ground disturbance, and other construction activities could cause a temporary disturbance to salt-marsh harvest

¹⁷ *The U.S. Department of the Interior recently issued guidance clarifying that the MBTA only applies to intentional/deliberate killing, harm or collection of covered species (including active nests) (USDOI 2017). According to the guidance, unintentional impacts to birds/nests that occur within the context of otherwise lawful activities are not MBTA violations. However, ambiguity remains regarding application of the CFGC, as well as the extent to which minimization and avoidance measures are still required under the MBTA. Additionally, challenges to the Opinion are anticipated.*

¹⁸ *California Native Plant Society. 2020a. Online Rare Plant Inventory. Available at: <http://rareplants.cnps.org/>*

¹⁹ *California Dept. of Fish and Wildlife California Natural Diversity Database. CDFW 2020. Available at: <https://www.wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>*

²⁰ *US. Fish and Wildlife Service. 2020. Information for Planning and Consultation. Available at: <https://ecos.fws.gov/ipac/>*

²¹ *U.S. Geologic Society. 1980. San Rafael 7.5-Minute Topographic Quadrangle.*

mouse (SMHM), California ridgway's rail and California black rail, federal and state-protected endangered species, with the potential to occur in the marshlands adjacent to the project area. Implementation of the avoidance and minimization measures listed in Mitigation Measure BIO-1 would reduce construction phase impacts to SMHM to less than significant. Implementation of the avoidance and minimization measures listed in Mitigation Measure BIO-2 would reduce construction phase impacts to CRR and black rail. The operational phase of the project would have a less than significant effect on special status species in the area. The presence of parked cars would not be significantly different from the current baseline of cars parked along the street. The effects of the more direct angle of light shining into the marsh are canceled by the berm that ascends higher than a car's headlights.

Mitigation Measure BIO-1: Mitigation measures for avoidance and minimization of effects to SMHM shall be incorporated into the permits or required authorizations and specifications, which the project proponent shall follow. The following avoidance and minimization measures are required:

1. A qualified biological monitor (i.e., biologist whose credentials for SMHM monitoring have been previously approved by the USFWS) shall be present on-site during all vegetation removal and initial ground-disturbing work in these areas. The biological monitor shall document compliance with the permit conditions and all take avoidance and minimization measures. The monitor(s) shall have the authority to halt construction, if necessary, if there is the potential for a listed species to be harmed or when non-compliance events occur. The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a listed species, or anyone who finds a dead, injured, or entrapped listed species.
2. If any mouse is observed at any time during construction, work shall not be initiated or shall be stopped immediately by the biological monitor until the mouse leaves the vicinity of the work area of its own accord. The biological monitor or any other persons at the site shall not pursue, capture, or handle any mouse observed.
3. Night work is not anticipated and shall be avoided to the fullest extent feasible. If night work is necessary, all lighting shall be directed away from marsh and wetland areas to avoid impacting the natural behavior of SMHM.
4. All vehicles and heavy equipment stored outside of exclusion fencing and in the vicinity of suitable SMHM habitat shall be checked for mice before work commences each morning.
5. When construction activities are to take place in potential SMHM habitat (emergent marsh and upland areas within 50 feet of emergent marsh), vegetation removal in work areas shall be performed to remove cover and render these areas unattractive to SMHM.
 - a. Only non-motorized equipment or hand-held motorized equipment (i.e., string trimmers) shall be used to remove the vegetation.

- b. Vegetation shall be cut in at least two passes: with the first pass cutting vegetation at approximately half of its height above the ground (mid-canopy) and the next pass, or subsequent passes, cutting vegetation to ground-level or no higher than 1 inch.
 - c. The biological monitor shall inspect areas of vegetation removal immediately prior to the initiation of removal to search for SMHM and “flush” small mammals out of the area and toward adjacent marsh areas that will not be subject to removal. If any mouse is observed, work shall be stopped immediately by the biological monitor until the mouse leaves the vicinity of the vegetation removal of its own accord.
 - d. Vegetation removal shall start in the position furthest from the highest quality and most accessible SMHM habitat outside of the work area, and progress toward that habitat, such that SMHM are protected to the greatest degree possible as they move out of the focal area.
 - e. Cut vegetation shall be removed from the exclusion area (work area) so that no cut vegetation remains there once the exclusionary fence is installed, to discourage SMHM from being attracted to the area.
 - f. All non-native, invasive vegetation removed shall be discarded at a location outside of any marsh areas to prevent reseeding.
6. Following completion of vegetation removal, temporary exclusionary fencing shall be installed to isolate work areas and prevent SMHM from entering work areas during construction.
- a. The fencing shall be installed between suitable habitat areas (e.g., salt marsh) and the defined work area (or areas) adjacent to suitable habitat immediately following vegetation removal and prior to the start of construction/excavation activities. The fencing should be installed along the upland edge of the Bay Trail for the portions of the project area directly adjacent to the marsh. The fence should extend from the edge of the parking lot at the Albert J. Boro Community Center to the walkway along the eastern edge of the project area. When the fencing reaches the walkway, it should turn south west and follow the walkway until it reaches the road.
 - b. The fence shall consist of a non-textured, slick material that does not allow SMHM to pass through or climb, or silt fence with slick tape (or an effectively similar material) a minimum of 6 inches wide fixed to the fence to render it non-climbable. The bottom should be buried to a depth of at least 4 inches so that animals cannot crawl under the fence. Fence height should be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet.
 - c. Fence posts should be placed facing the work area side (i.e., vegetation-cleared side) and not the side of the fencing facing intact habitat areas. The fencing shall be installed under the supervision of a biological monitor.

- d. The biological monitor shall routinely inspect exclusionary fencing to ensure that it remains intact and effective. Fencing deficiencies noted shall be immediately reported to the contractor and repaired promptly.

Mitigation Measure BIO-2: If construction work is between February 1 and August 31, protocol-level surveys for California Ridgway's rail shall be conducted to determine the extent and location of nesting California Ridgway's rail. Results of protocol breeding surveys shall be submitted to the USFWS for a determination of whether work proposed within 700 feet of a California Ridgway's rail nest (or the activity center of vocalizing rails) discovered during such surveys should be rescheduled to occur during the period from September 1 to January 31. If no California Ridgway's rails are observed during protocol surveys during a given year, the USFWS typically allows construction to occur adjacent to California Ridgway's rail habitat during the breeding season of the same year.

- b) **No Impact.** The proposed project is not located within any riparian habitat or sensitive natural community. The areas that will be impacted are described as previously developed or ruderal/non-native. No riparian or sensitive natural vegetation will be removed, so there will be no impact.
- c) **No Impact.** The proposed project is located adjacent to Tiscornia Marsh, a salt marsh along the San Francisco Bay. The marsh is separated from the project area by a levee. No wetlands occur within the project area. There will be no direct impact to the marsh through removal, filling, hydrological interruption or other means. There will be no impact to wetlands in this manner.
- d) **Less than Significant with Mitigation Incorporated.** The project would not impede the movement of a native resident or migratory fish or wildlife species, as drainage patterns and topographic features would not be changed. However, the project has the potential to temporarily impede the use of native wildlife nursery sites during the construction phase by damaging bird nests and causing injury or mortality to eggs or chicks, or disturbance of nesting adults resulting in reduced clutch survival or nest abandonment. Implementation of Mitigation Measures BIO-3 would ensure that impacts to native wildlife nursery sites are less than significant during the construction phase. One new tree will be planted in the project area which would have the potential to support future nesting birds during the operational phase.

Mitigation Measure BIO-3: Mitigation measures for avoidance and minimization of effects to nesting birds shall be incorporated into the permits or required authorizations and specifications, which the project proponent shall follow. For the avoidance of impacts to native nesting birds protected by the MBTA and CFGC, the following avoidance and minimization measures are proposed as a part of the permit applications:

1. Project activities shall be initiated to the extent feasible, outside of the nesting season. The nesting season is defined here as being from February 1 to August 31 and therefore work shall commence between September 1 and January 31.

2. If this is not possible, and project activities are initiated during the nesting season, then a nesting bird survey shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of project activities.
 3. If nests are identified, a no-disturbance buffer shall be implemented to avoid impacts to nesting birds and should remain in place until all young are fledged or the nest otherwise becomes inactive. Buffers typically range from 25 feet to 500 feet depending on the species.
- e) **Less than Significant.** The City of San Rafael provides for the protection of street trees along any public street, sidewalk or walkway in the city (Ord. 972 § 2, 1970; Ord. 865 § 2, 1966; Ord. 609). If a protected tree must be removed or impacted, it would be replaced in accordance with the municipal code. The trees slated for removal as part of the project do not qualify as street trees and as such do not need to be replaced. Tree removal as a result of project implementation would not conflict with any local provisions for tree protection, and less than significant impacts are anticipated.
- f) **No Impact.** No state, regional, or federal habitat conservation plans or Natural Community Conservation Plans have been adopted for the project site.

V. CULTURAL RESOURCES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,2,13
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,13
c) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2,13

The following analysis of cultural resource impacts is based on a report compiled by Alta Archaeological Consulting in November 2020, which is available for review at the City of San Rafael Public Works Department by qualified individuals only due to the confidential nature of the report. Sources consulted for the report included a records search with the Northwest Information Center (NWIC), review of historic registers and maps, literature review, and a field survey.

Environmental Setting

The project area is situated within the Coast Range geologic province.²² The northern Coast Ranges are a geologic province comprised of numerous rugged north-south trending ridges and valleys that run parallel to a series of faults and folds. Formation of these ranges is generally attributed to events associated with subduction of the Pacific Plate beneath the western border of North America. The bedrock that underlies the region is a complex assemblage of highly deformed, fractured, and weathered sedimentary, igneous, and metamorphic rocks. The bedrock geology of the project area consists of Jurassic-Cretaceous age Franciscan Formation rock (Schoenherr 1995:7). Rocks of this formation, the oldest in the area, are often weakly metamorphosed, and consist of greywacke shale interspersed with discontinuous bodies of ultramafic rock such as greenstone, schist, and serpentinite. The repeated folding and faulting is reflected in the complex structure of Franciscan rocks and area topography (Schoenherr 1995:265).

The project area is situated on a wetland flat bordering the San Rafael Bay on the north side of the San Quentin Peninsula. The vegetation community surrounding the project area consists mainly of high grasses with sparse deciduous forest. Common hardwood trees in the region include California bay laurel (*Umbellularia californica*), Valley oak (*Quercus lobata*), Interior live

²² Jenkins, O.P. 1969. *Geologic map of California*. California Division of Mines and Geology, Sacramento.

oak (*Quercus wislizeni*), and Coast live oak (*Quercus agrifolia*). Softwoods include Coast redwood (*Sequoia sempervirens*) and Monterey pine (*Pinus radiata*). Throughout the North Coast Ranges, many trees imported into the region have thrived, particularly blue-gum eucalyptus (*Eucalyptus globulus*) (Little 1980). The project area is situated in the southern portion of highly-developed San Rafael. The parcel is surrounded on three sides by industrial parks and housing developments.

Regulatory Setting

Federal and state criteria have been established for the determination of historical resource significance as defined in National Register (NR) criteria contained in National Register Bulletin 16 (U.S. Department of the Interior 1986:1) and for the purposes of CEQA under Section 5024.1(g) of the Public Resource Code and Section 15064.5 of the State CEQA Guidelines.

The NHPA applies to certain projects undertaken requiring approval by federal agencies. Property owners, planners, developers, as well as State and local agencies are responsible for complying with NHPA's requirements regarding the identification and treatment of historic and prehistoric cultural resources. Under NHPA, cultural resources must be evaluated to determine their eligibility for listing in the NR. If an archaeological resource is determined ineligible for listing on the NR, then the resource is released from management responsibilities and a project can proceed without further cultural resource considerations. Similarly, the CEQA applies to certain projects undertaken requiring approval by State and/or local agencies. Under CEQA, cultural resources must be evaluated to determine their eligibility for listing in the California Register of Historic Resources (CRHR). If a cultural resource is determined ineligible for listing on the CRHR the resource is released from management responsibilities and a project can proceed without further cultural resource considerations.

The Schoen Park Modification Project was evaluated for eligibility for listing on the NRHP per the four criteria established in 36 CFR 60.4: Criteria for evaluation and for listing on the CRHR per Sections 15064.5 (b), 21083.2, and 21084.1 of the Public Resource Code (PRC) and the CEQA Guidelines (California Code of Regulations Title 14, Section 15064.5).

As set forth in Title 36, Part 63 of the Code of Federal Regulations, for a cultural resource to be deemed significant under the NHPA and thus eligible for listing on the NR, it must meet at least one of the following criteria:

- (A) associated with events that have made a significant contribution to the broad patterns of our history; or
- (B) associated with the lives of persons significant in our past; or
- (C) embodies distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (D) yielded, or may be likely to yield, information important in prehistory or history.

Furthermore, in order to be considered eligible for listing on the NR, a property must retain aspects of integrity, or its ability to convey its historical significance. These aspects are as follows: Location, Design, Setting, Materials, Workmanship, Feeling, and Association.

As set forth in Section 5024.1(c) of the Public Resources Code for a cultural resource to be deemed “important” under CEQA and thus eligible for listing on the California Register of Historic Resources (CRHR), it must meet at least one of the following criteria:

- (1) is associated with events that have made a significant contribution to the broad patterns of California History and cultural heritage; or
- (2) is associated with the lives of persons important to our past; or
- (3) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possess high artistic value; or
- (4) has yielded or is likely to yield, information important to prehistory or history.

Archaeological resources are commonly evaluated with regard to Criteria D/4 (research potential).

Historic-era structures older than 50 years are most commonly evaluated in reference to Criteria 1/A (important events), Criteria B/2 (important persons) or Criteria C/3 (architectural value). To be considered eligible under these criteria the property must retain sufficient integrity to convey its important qualities. Integrity is judged in relation to seven aspects including: location, design, setting, materials, workmanship, feeling, and association.

Discussion of Impacts

- a) **No Impact.** A records search was requested by Robin Hoffman of WRA (File Number 19-2100) at the Northwest Information Center (NWIC) located on the campus of Sonoma State University. The NWIC, an affiliate of the State of California Office of Historic Preservation is the official state repository of archaeological and historical records and reports for an 18-county area that includes Marin County. The records search included a review of all study reports on file within a one-half mile radius of the Project Area. The request included a half-mile radius. Sources consulted include archaeological site and survey base maps, survey reports, site records, and historic General Land Office (GLO) maps.

Included in the review were:

- *California Inventory of Historical Resources* (California Department of Parks and Recreation 1976)
- *California Historical Landmarks for Marin County* (CA-OHP 1990)
- *California Points of Historical Interest* (CA-OHP 1992)
- *Built Environment Resource Directory (BERD)* (CA-OHP January 2020), including the National Register of Historic Places, California Historical Landmarks, and California Points of Historical Interest

Review of historic registers and inventories indicate that no historical landmarks or points of interest are present in the Project Area. No National Register listed or eligible properties are located within the 0.5-mile visual area of the Project Area.

ALTA staff archaeologists conducted a field survey of the project site and the surrounding area on November 19, 2020. Project design, project maps, and aerial imagery were used to correctly identify the project area. Ground surface visibility was poor due to the heaving urbanization and hardscaping throughout; a total of about 1-acre was surveyed. Three shovel probes were employed to expose the ground surface for inspection. Digital photos were taken of the project area and surroundings. The field survey did not find any historical resources. Since both the database and field survey found no historic resources, there will be no impact.

b) ***Less than Significant Impact with Mitigation Incorporated.*** The project area has a low sensitivity for archaeological resources. Historically, the project area was part of the waters of San Rafael Bay. The area was diked and reclaimed during the mid-20th century as part of reclamation efforts (USGS 1956, 1960). As such, there is a low sensitivity for encountering either prehistoric or historic-era archaeological resources. Additionally, all proposed project improvements would occur within existing rights-of-way and no improvements would require additional large-scale excavation. Furthermore, the areas for which project work is proposed have already been disturbed as a result of the original construction of the existing pump station and storm drainage pipe. The previous construction activity would likely have reduced or eliminated the significance of archaeological resources if they were encountered.

In the event that archeological resources are discovered, the City of San Rafael requires that specific resource measures be adhered to. If resources are found and the measures are enacted, impacts would be less than significant.

However, the City of San Rafael implements specific adopted archeological resource measures in the event resources are encountered during grading. Impacts would be less than significant with implementation of the following mitigation measure:

Mitigation Measure CULT-1: The City or its contractor shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Sections 5097.5, 5097.9 et seq., regarding the discovery and disturbance of cultural materials, should any be discovered during project construction.

In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of

glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).

- c) ***Less than Significant Impact.*** There are no formal cemeteries on the site, nor are human remains likely to exist on the site. However, the possibility remains that a resource of cultural significance may be encountered. Per Public Resources Code 5097.98 and Health and Human Safety Code 7050.5, if human remains are encountered, excavation or disturbance of the location shall be halted in the vicinity of the find, and the County Coroner contacted. If the Coroner determines the remains are Native American, the Coroner shall contact the Native American Heritage Commission. The Native American Heritage Commission shall identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations regarding the treatment of the remains with appropriate dignity. With the compliance of State law, a less-than-significant impact would result.

VI. ENERGY — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 2

Environmental Setting

California

Energy usage is typically quantified using the British thermal unit (“BTU”). As a point of reference, the approximate amount of energy contained in common energy sources are as follows: gasoline, 115,000 BTUs per gallon; diesel, 138,500 BTUs per gallon; natural gas, 21,000 BTUs per pound (“lb”); electricity, 3,414 BTUs per kilowatt-hour (“kWh”).²³

Total energy usage in California was 7,640.8 trillion BTUs in 2012, which equates to an average of 201 million BTUs per capita. Of California’s total energy usage, the breakdown by sector is 39 percent transportation, 23 percent industrial, 19 percent residential, and 19 percent commercial. Petroleum satisfies 55 percent of California’s energy demand, natural gas 32 percent, and electricity 12 percent. Coal fuel accounts for less than one percent of California’s total energy demand.²⁴ Electric power and natural gas in California are generally consumed by stationary users, whereas petroleum consumption is generally accounted for by transportation-related energy use.²⁵ The other sources are made up of renewable energy sources, which includes wind and solar power, among other uses.

Given the nature of the proposed project, the main uses of energy would occur via construction vehicle fuel and electricity during operation. These two sources of energy are discussed in further detail below.

City of San Rafael

The City of San Rafael receives its electricity from Pacific Gas & Electric Company (PG&E), a

²³ U.S. Department of Energy, 2014. *Alternative Fuels Data Center – Fuel Properties Comparison*. http://www.afdc.energy.gov/fuels/fuel_comparison_chart.pdf

²⁴ U.S. Department of Energy, Energy Information Administration, 2014. “Official Energy Statistics from the U. S. Government,” http://tonto.eia.doe.gov/state/state_energy_profiles.cfm?sid=CA.

²⁵ *Ibid.*

natural gas and electric utility, as well as Marin Clean Energy (MCE), which supplies customers with 50 to 100% renewable energy as an alternative to PG&E. MCE's 100% renewable electricity program is called Deep Green, and it supplies non-polluting wind and solar power for public buildings, streetlights, and other civic accounts in Marin County. San Rafael chose to join the Deep Green program in 2018.

Regulatory Setting

Federal and state agencies regulate energy use and consumption through various means and programs. At the federal level, the United States Department of Transportation, the United States Department of Energy, and the United States Environmental Protection Agency (EPA) are three federal agencies with substantial influence over energy policies and programs. Generally, federal agencies influence and regulate transportation energy consumption through establishment and enforcement of fuel economy standards for automobiles and light trucks, through funding of energy related research and development projects, and through funding for transportation infrastructure improvements.

At the state level, the California Public Utilities Commission (CPUC) and the California Energy Commission (CEC) are two agencies with authority over different aspects of energy. The CPUC regulates privately owned utilities in the energy, rail, telecommunications, and water fields. The CEC collects and analyzes energy-related data, prepares statewide energy policy recommendations and plans, promotes, and funds energy efficiency programs, and adopts and enforces appliance and building energy efficiency standards. California is exempt under federal law from rules that otherwise would preempt setting state fuel economy standards for new on-road motor vehicles. Some of the more relevant federal and state energy-related laws and plans are discussed below.

Federal Regulations

Energy Policy Act of 2005

Passed by Congress in July 2005, the Energy Policy Act includes a comprehensive set of provisions to address energy issues. The act includes tax incentives for the following: energy conservation improvements in commercial and residential buildings; fossil fuel production and clean coal facilities; and construction and operation of nuclear power plants, among other things. Subsidies are also included for geothermal, wind energy, and other alternative energy producers. It directs the USDOE to study and report on alternative energy sources such as wave and tidal power, and includes funding for hydrogen research. The Act also increases the amount of ethanol required to be blended with gasoline, and extends daylight saving time (to begin earlier in spring and end later in fall) to reduce lighting requirements. It also requires the federal vehicle fleet to maximize use of alternative fuels. The Act further includes provisions for expediting construction

of major energy transmission corridors, such as high-voltage power lines, and fossil fuel transmission pipelines. These are just a few examples of the provisions contained in the Act.²⁶

Energy Independence and Security Act of 2007

Signed into law in December 2007, this broad energy bill included an increase in auto mileage standards, and also addressed biofuels, conservation measures, and building efficiency. The U.S. EPA administers the Corporate Average Fuel Economy (CAFE) program, which determines vehicle manufacturers' compliance with existing fuel economy standards. The bill amended the CAFE standards to mandate significant improvements in fuel efficiency (i.e., average fleet wide fuel economy of 35 miles per gallon (mpg) by 2020, versus the previous standard of 27.5 mpg for passenger cars and 22.2 mpg for light trucks).²⁷

Another provision includes a mandate to increase use of ethanol and other renewable fuels by 36 billion gallons by 2022, of which 21 million gallons is to include advanced biofuels, largely cellulosic ethanol, that have 50 to 60 percent lower GHG emissions. The bill also includes establishment of a new energy block grant program for use by local governments in implementing energy-efficiency initiatives, as well as a variety of green building incentives and programs, among other things.²⁸

State Regulations

Energy Action Plan

In 2003, the three key energy agencies in California— the CEC, the California Power Authority (CPA), and the CPUC— jointly adopted an Energy Action Plan (EAP) that listed goals for California's energy future and set forth a commitment to achieve these goals through specific actions. In 2005, the CPUC and the CEC jointly prepared the EAP II to identify the further actions necessary to meet California's future energy needs. The EAP II describes the priority sequence for actions to address increasing energy needs, also known as "loading order." The loading order identifies energy efficiency and demand response as the state's preferred means of meeting growing energy needs. After cost-effective efficiency and demand response, the state is to rely on renewable sources of power and distributed generation, such as combined heat and power applications. To the extent that efficiency, demand response, renewable resources, and distributed generation are unable to satisfy increasing energy and capacity needs, the EAP II supports the use of clean and efficient fossil fuel-fired generation.

In 2008, the CPUC and CEC released an Energy Action Plan Update using information and analysis prepared for the Energy Commission's *2007 Integrated Energy Policy Report (IEPR)*.

²⁶ United States Congress, *Energy Policy Act of 2005 (Public Law 109-58)*, passed July 29, 2005. <https://www.congress.gov/bill/109th-congress/house-bill/6>

²⁷ EPA. 2007. *Summary of the Energy Independence and Security Act*. Available online at: <https://www.epa.gov/laws-regulations/summary-energy-independence-and-security-act>

²⁸ *Ibid* 33

The Update was partially written in response to the California Global Warming Solutions Act of 2006 (discussed below), intended to keep the EAP I and EAP II process alive while capturing changes in the policy landscape and describing intended activities to accomplish those policies. The focus areas included: energy efficiency, demand response, renewable energy, electricity reliability and infrastructure, electricity market structure, natural gas supply and infrastructure, research and development, and climate change.²⁹

The EAP identifies key actions to be taken in all of these areas in order to meet the state's growing energy requirements. The plan recommendations are implemented by the governor through executive orders, by the legislature through new statutes, and by the responsible state agencies through regulations and programs.

Title 24 (California Energy Code)

The California Energy Code (Title 24, Part 6, of the California Code of Regulations, California's Energy Efficiency Standards for Residential and Nonresidential Buildings), provides energy conservation standards for all new and renovated commercial and residential buildings constructed in California. The provisions of the California Energy Code apply to the building envelope, space-conditioning systems, and water-heating and lighting systems of buildings and appliances; they also give guidance on construction techniques to maximize energy conservation. Minimum efficiency standards are given for a variety of building elements, including appliances; water and space heating and cooling equipment; and insulation for doors, pipes, walls, and ceilings. The CEC adopted the 2005 changes to the Building Efficiency Standards, which emphasized saving energy at peak periods and seasons, and improving the quality of installation of energy-efficiency measures. It is estimated that implementation of the 2005 Title 24 standards have resulted in an increased energy savings of 8.5 percent relative to the previous Title 24 standards. Compliance with Title 24 standards is verified and enforced through the local building permit process.³⁰ The 2008 Title 24 Standards, which had an effective date beginning August 1, 2009, include added provisions that require, for example, "cool roofs" on commercial buildings; increased efficiency in heating, ventilating, and air conditioning systems; and increased use of skylights and more efficient lighting systems.³¹ Title 24 Standards were further updated with the 2013 Building Energy Efficiency Standards, which are estimated to lead to 25 percent less energy consumption for residential buildings and 30 percent savings for nonresidential buildings over 2008 Energy Standards. 2013 standards, which updated codes for lighting, space heating and cooling, ventilation, and water heating, took effect on July 1st 2014.

²⁹ *State of California, Energy Commission and Public Utilities Commission, "Energy Action Plan 2008 Update," February 2008.* http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy_-_Electricity_and_Natural_Gas/2008%20Energy%20Action%20Plan%20Update.pdf

³⁰ *California Energy Commission (2016) Web site (Building Efficiency Standards),* <http://www.energy.ca.gov/title24>

³¹ *Ibid.*

California Green Building Standards Code

All new construction must adhere to the California Green Building Standards Code (CCR, Title 24, Part 11) in place at the time of construction. As an example, the 2013 Title 24 California Green Building Standards, referred to as CALGreen:

- Sets a threshold of a 20 percent reduction in indoor water use and includes voluntary goals for reductions of 30 percent, 35 percent, and 40 percent.
- Requires separate meters for indoor and outdoor water use at nonresidential buildings; and at those sites, irrigation systems for larger landscaped areas must be moisture-sensing.
- Calls for 50 percent of construction waste to be diverted from the landfills and lists higher, voluntary diversion amounts of 65 percent to 75 percent for new homes, and 80 percent for commercial construction.
- Mandates inspections of energy systems -- such as the heat furnace, air conditioning, and mechanical equipment -- for nonresidential buildings that are larger than 10,000 square feet to "ensure that all are working at their maximum capacity according to design efficiencies."
- Requires that paint, carpet, vinyl flooring, particle board, and other interior finish materials be low-emitting in terms of pollutants.

California Global Warming Solutions Act of 2006

In September 2006, the governor signed AB 32, the Global Warming Solutions Act of 2006, which mandates that California's GHG emissions be reduced to 1990 levels by 2020. The act directs the California EPA to work with state agencies to implement a cap on GHG emissions (primarily carbon dioxide) from stationary sources of such as electric power generation facilities, and industrial, commercial, and waste-disposal sectors. Since carbon dioxide emissions are directly proportional to fossil fuel consumption, the cap on emissions is expected to have the incidental effect of forcing a reduction in fossil fuel consumption from these stationary sources. Specifically, AB 32 directs the California EPA to work with other state agencies to accomplish the following: 1) promulgate and implement GHG emissions cap for the electric power, industrial, and commercial sectors through regulations in an economically efficient manner; 2) institute a schedule of greenhouse gas reductions; 3) develop an enforcement mechanism for reducing GHG; 4) establish a program to track and report GHG emissions.³²

Senate Bill 32

Enacted in 2016, Senate Bill (SB) 32 (Pavley, 2016) codifies the 2030 GHG emissions reduction goal of Executive Order B-30-15 by requiring CARB to ensure that statewide GHG emissions are reduced to 40 percent below 1990 levels by 2030. Similar to AB 32, a reduction in GHG emissions typically corresponds with a reduction in energy usage as the bulk of GHGs result from the

³² *Assembly Bill 32, Passed August 31, 2006, <http://www.arb.ca.gov/cc/docs/ab32text.pdf>.*

combustion of fossil fuel.

SB 32 was coupled with a companion bill: AB 197 (Garcia, 2016). Designed to improve the transparency of CARB's regulatory and policy-oriented processes, AB 197 created the Joint Legislative Committee on Climate Change Policies, a committee with the responsibility to ascertain facts and make recommendations to the Legislature concerning statewide programs, policies and investments related to climate change. AB 197 also requires CARB to make certain GHG emissions inventory data publicly available on its web site; consider the social costs of GHG emissions when adopting rules and regulations designed to achieve GHG emission reductions; and, include specified information in all Scoping Plan updates for the emission reduction measures contained therein.

Local Regulations

In addition to federal and state regulations and guidelines, the following is a synopsis of local City of San Rafael regulations and goals relative to reducing or avoiding significant impacts on energy use.

City of San Rafael General Plan 2020

Policy SU-6 Resource Efficiency in Site Development. Encourage site planning and development practices that reduce energy demand, support transportation alternatives and incorporate resource and energy-efficient infrastructure.

Policy SU-6a. Site Design. Evaluate as part of development review, proposed site design for energy-efficiency, such as shading of parking lots and summertime shading of south-facing windows.

Policy SU-14d. City Electricity. Participate in the Marin Energy Authority by switching all City accounts over to the Light Green option in 2010 and the Deep Green option (100% renewable power) by 2020. Consider the use of renewable energy technology such as solar, cogeneration and fuel cells in the construction or retrofitting of City facilities.

Policy SU-14i. Backup Energy Provision. Evaluate backup energy provisions for critical city facilities and upgrade as needed. Encourage the use of alternatives, such as fuel cell and solar generator backups, to the sustained use of gasoline-powered generators.

City of San Rafael Climate Change Action Plan 2030³³

EE-C3: Cool Pavement and Roofs. Use high albedo material for roadways, parking lots, sidewalks and roofs to reduce the urban heat island effect and save energy.

- a. Evaluate the use of high albedo pavements when resurfacing City streets or re-roofing City facilities.

³³ City of San Rafael, "Climate Action Plan 2030", April 23, 2019. <https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2019/06/Att-D-CCAP-2030-Final-Draft-4-23-19.pdf>

b. Encourage new development to use high albedo material for driveways, parking lots, walkways, patios, and roofing through engagement and behavior change campaigns.

Discussion of Impacts

- a) ***Less than Significant Impact.*** The proposed project would require the use of diesel and other fuels for trucks and equipment during construction, but these activities would be short-term and completed as efficiently as possible for practical and financial reasons, among other considerations. The only ongoing energy consumption in the operational phase of the project would be from three new street lights which will be connected to the PG&E power grid. Since streetlights in Marin County are powered by renewable energy sources through PG&E's partnership with MCE, there would a less than significant impact of the additional lighting sources.
- b) ***Less than Significant Impact.*** The proposed project would replace a public park with additional public street parking. The only energy consumption that will result from this project will be from three additional street lamps. Given San Rafael's enrollment in the Deep Green 100% renewable program, electricity for the street lamps could be from renewable sources. Impacts would be less than significant.

VI. GEOLOGY AND SOILS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:					
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1,10
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10
iv) Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7, 3
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,7, 3
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code, creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 7
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1, 3

VI. GEOLOGY AND SOILS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Environmental Setting

Regional Geologic Setting

The project site lies within the Coast Ranges geomorphic province of California. Regional topography within the Coast Ranges province is characterized by northwest-southeast trending mountain ridges and intervening valleys that parallel the major geologic structures, including the San Andreas Fault System. The province is also generally characterized by abundant landslides and erosion, owing in part to its typically high levels of precipitation and seismic activity.

Earthquakes are the product of the build-up and sudden release of strain along a “fault” or zone of weakness in the earth's crust. Stored energy may be released as soon as it is generated, or it may be accumulated and stored for long periods of time. Faults are seldom single cracks in the earth's crust but are typically comprised of localized shear zones which link together to form larger fault zones. Within the Bay Area, faults are concentrated along the San Andreas fault system, which extends nearly 700 miles along a northwest trend from Mexico to offshore northern California. The movement between rock formations along either side of a fault may be horizontal, vertical, or a combination and is radiated outward in the form of energy waves. The amplitude and frequency of earthquake ground motions partially depends on the material through which it is moving. The earthquake force is transmitted through hard rock in short, rapid vibrations, while this energy becomes a long, high-amplitude motion when moving through soft ground materials, such as Bay Mud.

An “active” fault is one that shows displacement within the last 11,000 years (i.e. Holocene) and has a reported average slip rate greater than 0.1 mm per year. The California Division of Mines and Geology (1998) has mapped various active and inactive faults in the region. The nearest known active faults to the site are the San Andreas and Hayward Faults.

Local Geologic Setting

The project site is located immediately west of San Rafael Bay. Regional geologic mapping³⁴ indicates that the site is underlain by artificial fill over Bay Mud. The project site, like all properties

³⁴ California Division of Mines and Geology, “Geology for Planning in Central and Southeastern Marin County, California, OFR 76-2 S.F. Plate 1D, South Central Marin Geology”, 1976.

in the San Francisco Bay area, is situated in a seismically active area. In the San Francisco Bay Area, the San Andreas fault system includes the San Andreas, Hayward, Calaveras, and other related faults in the San Francisco Bay area. According to the U.S. Geological Survey, there is a 62% chance of at least a magnitude 6.7 (or greater) earthquake in the San Francisco Bay region between 2003 and 2032.

The project area is not located within a State of California Earthquake Fault Zone for active faulting and no active faults are mapped on the property. The San Andreas Fault is located approximately 11.3 miles southwest of the site whereas the Hayward Fault is located approximately 7.4 miles to the northeast.

Discussion of Impacts

- a-i) **No Impact.** The project site is not located within a State of California designated Alquist-Priolo Earthquake Fault Zone. Earthquake fault zones are regulatory zones that encompass surface traces of active faults that have a potential for future surface fault rupture. The closest active faults to the site are the San Andreas Fault, located approximately 11.3 miles to the west-southwest of the project site at its closest point, and the Hayward Fault, approximately 7.4 miles northeast at its closest point. No faults cross through the project site, and surface rupture associated with a fault is not anticipated in the City. No impacts would occur.
- a-ii) **Less than Significant Impact.** The potential for seismic ground-shaking at the project site is “very strong” according to the Association of Bay Area Government’s (ABAG) Resilience Program hazards map, but seismic-related ground failure is not anticipated. The project site’s proximity to two active bay area faults (San Andreas and Hayward) leaves it vulnerable to some degree of ground shaking, which is common in the Bay Area. The proposed project would not create a need or opportunity for people to reside on-site and thus be exposed to such ground shaking long-term. If an earthquake were to occur during the construction phase, it could create a risk for workers on-site, but under the obligation of the Occupational Safety and Health Act (OSHA), construction workers would be trained to take the necessary precautions to maintain worker safety in the event of an earthquake. Structures associated with the proposed work would be designed to conform to the most recent edition of the California Building Code (2016). Given these legal obligations, the impacts related to this topic would be less than significant.
- a-iii) **Less than Significant Impact.** Liquefaction occurs when a saturated or partially saturated soil substantially loses strength and stiffness in response to an applied stress, such as seismic shaking, which causes a solid to behave like a liquid. Soils susceptible to liquefaction are saturated, loose, granular deposits. Liquefaction can result in flow failure, lateral spreading, ground movement, settlement, and other related effects. Buried pipelines embedded within liquefied soils may also experience uplift due to buoyancy.

According to ABAG’s Resilience Program hazards map, the project site has moderate to very high susceptibility to liquefaction. The project would be subject to all Federal, State,

and local regulations for seismic conditions, which would require all construction activities to account for the possibility of liquefaction. Impacts would be less than significant.

- a-iv) **Less than Significant Impact.** Landslides are frequently triggered by strong ground motions. They are an important secondary earthquake hazard. The term landslide includes a wide range of ground movement, such as rock falls, deep failure of slopes, and shallow debris flows. Landslides from seismic activity are a very low risk at the project site given its flat topography and general lack of slopes, cliffs, or flowing water.

The project is subject to all Federal, State, and local regulations and standards for seismic conditions, including the CBC, and would be designed to conform to all building requirements. Given the low risk of landslides at the project site and the legal obligations associated with seismic building design, impacts associated with seismic landslides would be less than significant.

- b) **Less than Significant Impact.** The project would remove 650 CY of existing asphalt, base rock, and soil from the site and replace it with non-permeable surfaces. Grading of the site would ensure that existing drainage patterns are sustained. Additionally, there would be minimal disturbance of native topsoil, as construction activities would take place mainly within existing paved roads and the soil in the area is non-native fill material. BAAQMD construction measures would be implemented to minimize the potential for erosion and indirect effects associated with soil erosion (i.e., water quality impacts, fugitive dust). Any soil removed will be immediately transported offsite. Impacts on soil would therefore be less than significant.

- c, d) **Less than Significant Impact.** The potential for geologic and soil hazards from unstable or expansive soils in the project site is considered low based on the geologic units, soil types, and flat topography discussed previously. The ground disturbance associated with the proposed project would cause soil disturbance, but these actions would not result in substantial changes in topography, ground surface relief features, or geologic substructures, and would therefore not change the stability of the soil conditions. Furthermore, the project is subject to all Federal, State, and local regulations and standards for seismic conditions including the California Building Code (CBC) and would be designed to conform to all building requirements. Therefore, the proposed project's impacts would not destabilize the soil or expose human life or structures to increased risk of on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. Impacts in these areas would be less than significant.

- e) **No Impact.** The project does not involve construction of septic tanks or alternative wastewater disposal systems.

- f) **Less than Significant Impact.** The project site follows mainly existing rights-of-way on paved and previously disturbed land. Excavation of soil would be required, but the soil would be non-native fill and is unlikely to contain any paleontological resources. The ground disturbance associated with the project would not change the topography or

geologic substructures of the vicinity and would therefore not change any unique geologic features. The project area was historically part of the waters of the San Rafael Bay and was diked and reclaimed in the mid-20th century, covered in fill material. Unique paleontological or geologic features would therefore only exist in the deeper layers of soil and would remain undisturbed. Impacts would be less than significant.

VII. GREENHOUSE GAS EMISSIONS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Conflict with any applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11

Environmental Setting

Assembly Bill 32, adopted in 2006, established the Global Warming Solutions Act of 2006 which requires the State to reduce greenhouse gas (GHG) emissions to 1990 levels by 2020. Senate Bill 97, adopted in 2007, required the Governor’s Office of Planning and Research to develop CEQA guidelines “for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions,” and the Resources Agency certified and adopted the amendments to the guidelines on December 30, 2009.

GHGs are recognized by wide consensus among the scientific community to contribute to global warming/climate change and associated environmental impacts. The major GHGs released from human activity are carbon dioxide, methane, and nitrous oxide.³⁵ The primary sources of GHGs are vehicles (including planes and trains), energy plants, and industrial and agricultural activities (such as dairies and hog farms).

Discussion of Impacts

- a) **Less Than Significant Impact.** GHG emissions from the project would be produced from construction-related equipment emissions. Based on the nature of the project and short duration of construction, GHG emissions resulting from construction activities would be both minor and temporary. While the project would have an incremental contribution to GHG emissions within the City and region, the individual impact is less than significant. During the operational phase, the additional street lamps installed would be powered through clean energy as discussed above. The proposed project activities would cause more vehicles to be stopped in the area, but since they will not be in use in the project area there will be minimal contribution to GHG emissions. Less than significant impacts would occur.

³⁵ Governor’s Office of Planning and Research, 2008. *Technical advisory: CEQA and climate change: Addressing climate change through California Environmental Quality Act Review.* Sacramento, CA. Available at: <<http://opr.ca.gov/docs/june08-ceqa.pdf>>. June 19, 2008. Accessed May 2015.

- b) ***Less Than Significant Impact.*** The proposed project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing GHG emissions. GHG emissions from off-road equipment and utility electrical usage are identified and planned for in the BAAQMD's 2017 Clean Air Plan as well as the BAAQMD's Source Inventory of Bay Area Greenhouse Gas Emissions (BAAQMD 2017a and 2017b). A primary objective of the 2017 Clean Air Plan is to reduce greenhouse gas emissions to 40% below 1990 levels by 2020 and 80% below 1990 levels by 2050. The project would generate emissions similar to existing conditions and, therefore, a less-than-significant impact would occur.

VIII. HAZARDS AND HAZARDOUS MATERIALS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	8
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Environmental Setting

A material is considered hazardous if it appears on a list of hazardous materials prepared by a federal, state, or local agency or if it has characteristics defined as hazardous by such an agency. A hazardous material is defined in Title 22, Section 66261.10 of the California Code of Regulations as a substance with physical, chemical, or infectious characteristics which may cause or contribute to mortality or illness or pose a threat to human health or the environment when mismanaged. Chemical and physical properties which may cause a substance to be considered hazardous include toxicity, ignitability, corrosivity, and reactivity.

Under Government Code Section 65962.5, the California Department of Toxic Substances Control (DTSC) maintains a list of hazardous substance sites. This list, referred to as the “Cortese List,” includes CALSITE hazardous material sites, sites with leaking underground storage tanks, and landfills with evidence of groundwater contamination. The State Water Resource Control Board (State Water Board) *GeoTracker* database similarly documents hazardous waste sites throughout the state but focuses on groundwater contamination. According to the Cortese List there are no Federal superfund sites within five miles of the proposed Project. There are no active sites of any kind in the EnviroStor database within 3 miles of the proposed Project.³⁶ *GeoTracker* lists active sites within a mile of the proposed Project site, but Project activities will not affect the cleanup and vice versa.

Discussion of Impacts

a,b) **Less than Significant Impact.** Project construction activities are expected to involve the routine transport, use, and disposal of hazardous materials (e.g., motor fuels, paints, oils, and grease) that could pose a significant threat to human health or the environment if not properly managed. Although small amounts of these materials would be transported, used, and disposed of during project construction, these materials are typically used in construction projects and are not considered acutely hazardous. Workers who handle hazardous materials are required to adhere to health and safety requirements enforced by the federal Occupational Health and Safety Administration (OSHA) and California Division of Occupational Safety and Health (Cal/OSHA). By adhering to the OSHA standards, the risk of upset or accident is greatly minimized. Hazardous materials must be transported to and from the project site in accordance with Resource Conservation and Recovery Act (RCRA) and U.S. Department of Transportation regulations. Hazardous materials must also be disposed of in accordance with RCRA regulations at a facility that is permitted to accept the waste. Because compliance with existing regulations is mandatory, project construction is not expected to create a significant hazard to public health or the environment through the routine transport, use, or disposal of hazardous materials. As a result, impacts would be less than significant.

³⁶ Department of Toxic Substances Control, “EnviroStor Database,” Accessed April 23, 2020. <https://www.envirostor.dtsc.ca.gov/public/map/>.

- c) **Less than Significant Impact.** The Pickleweed Preschool is located directly to the northwest of the project site and Bahia Vista Elementary School is located less than 0.1 mile southwest of the site. Only small amounts of materials required to complete construction activities (e.g., motor fuels, paints, oils, and grease) would be handled within the vicinity of these schools. The substances stated above are not considered to be acutely hazardous. Additionally, all OSHA standards discussed above will be adhered to in order to minimize the potential threats of these materials to the environment or nearby persons. Therefore, there would be a less than significant impact on schools.
- d) **No Impact.** The provisions of Government Code Section 65962.5 require the State Water Resources Control Board, Department of Toxic Substances Control, California Department of Health Services, and California Department of Resources Recycling and Recovery to submit information to the California Environmental Protection Agency pertaining to sites that were associated with solid waste disposal, hazardous waste disposal, and/or hazardous materials releases. The compilation of hazardous materials release sites that meet criteria specified in Section 65962.5 of the California Government Code is known as the Cortese List. There are currently no hazardous materials release sites on the project site that meet the criteria for inclusion on the Cortese List. Therefore, the project would have no impacts related to development on a hazardous materials release site included on the Cortese List.
- e) **No Impact.** The project site is located more than two miles away from the closest airport and is not within an airport influence area, so there will be no impact in regards to creating a safety hazard or excessive noise for people in the project area.
- f) **Less than Significant Impact.** The proposed project area encompasses the stretch of the north side of Canal street that extends from the intersection of Canal Street/Bahia Way to Spinnaker Point Drive/Portsmouth Cove. Traffic patterns would be temporarily altered along Canal Street during construction activities. Portions of the westbound lane of Canal Street will be temporarily closed during construction, however, the Contractor will be able to provide motorists access through the job site by using trained flaggers to control vehicular traffic. An appropriate detour, if deemed necessary, would be planned to allow for routes to remain passable. Therefore, construction of the proposed project would not temporarily block or impair any existing emergency evacuation routes. There would be no impact to evacuation routes during the operational phase of the project.
- g) **Less than Significant Impact.** The project site is surrounded by paved urbanized uses, marshland, and an open body of water (the San Rafael Bay) and is not located in an area mapped as Very High Fire Hazard Severity Zone by California Department of Forestry and Fire Protection.³⁷ Therefore, the project would have a less-than-significant impact related to wildland fire hazards.

³⁷ CAL FIRE, 2007. *Fire Hazard Severity Zones in SRA, Adopted by Cal FIRE on November 7, 2007.*

IX. HYDROLOGY AND WATER QUALITY — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
(i) result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
(ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
(iii) create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
(iv) impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,11
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Environmental Setting

According to the RWQCB's Water Quality Control Plan for the San Francisco Basin, the project site is located in the Marin Coastal Basin and discharges to the San Rafael Bay. The San Rafael Creek watershed is 403 acres, consisting of urban/commercial development, hillside woods, and wetlands. The watershed is bisected by Interstate 580, which includes large roadside ditches for drainage that are inundated during rain events. The project site is protected from inundation by the levee that borders the northern edge of the site and lies south of the San Rafael Bay marshlands.

The project site is covered with pervious surfaces in the form of undeveloped park lands. Accumulated water in the project area either seeps through the ground or runs off into the storm drains under the sidewalk along the northern side of Canal Street. According to the Federal Emergency Management Agency (FEMA) Federal Insurance Rate Maps (FIRM), the project site is in flood zone AE, which is defined as an area within the 100-year flood zone where a base flood elevation has been determined.

Regulatory Setting

The City of San Rafael is part of the Marin Countywide Stormwater Pollution Prevention Program (MCSTOPPP) whose goals are to: prevent stormwater pollution, protect and enhance water quality in creeks and wetlands, preserve beneficial uses of local waterways, and comply with State and Federal regulations. MCSTOPPP staff implement permit compliance and track stormwater regulations on behalf of the member agencies.

The federal Clean Water Act (CWA) Section 402, promulgated by rules developed by the US EPA in 1990, establishes the National Pollutant Discharge Elimination System (NPDES) stormwater program. The program requires that urban stormwater runoff pollution of the nation's water be regulated for Municipal Separate Storm Sewer Systems (MS4s). The San Francisco Bay Regional Water Board issued one Municipal Regional Stormwater NPDES Permit (MRP) in 2015 covering MS4s that serve populations of 100,000 or greater. For smaller MS4s, such as the City of San Rafael, discharges are currently regulated under a General Permit renewal issued by the State Water Resources Control Board in 2013 for Storm Water Discharges from Small MS4s (Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS000004).

Discussion of Impacts

- a) ***Less than Significant Impact.*** Construction activities would require ground disturbance for excavation, removal of recreational equipment, grinding and paving, construction of the bioretention basin, and tree removal. In total approximately 650 cubic yards of existing asphalt, base rock, and native soils will be excavated from the site. Excavated material will not be stockpiled at the project site as it will not be reused during parking area construction. Standard construction measures recommended by the Marin Countywide Water Pollution Prevention Program would be implemented to minimize pollutants carried from the project site in runoff. The project would comply with terms of the State Water Board's Storm Water Discharges from Small MS4s General Permit. Water quality impacts

during construction would therefore be less than significant, and operational water quality impacts would not change from current baseline conditions.

- b) **Less than Significant Impact.** The project would not require use of groundwater supplies during construction or operation. The project would install new impervious surfaces, but will be graded to allow for drainage patterns to be maintained. The bioretention basin would be constructed to compensate for the loss of pervious surfaces within the project area. The basin would allow for groundwater recharge through direct absorption and through channeling of excess water into the storm drain system. All onsite runoff would be directed to the bioretention basin through valley gutters that would be constructed along the edge of the sidewalk. Therefore, the impact to groundwater would be less than significant.
- c-i-iv) **Less than Significant Impact.** The proposed project would not alter the course of a stream or river, but it would include the addition of impervious surfaces. In order to construct paved parking areas, the current permeable surface of the park area would be excavated, removed, and replaced with aggregate base rock and asphalt. The site would be graded to ensure that the current drainage patterns are maintained. Additionally, the bioretention basin would collect all surface runoff from the site. Therefore, the increased impervious surfaces would create a less than significant impact on erosion and siltation, surface water runoff, and drainage patterns. Part of the new parking area construction would include gutters along the sidewalk to channel water through the bioretention basin which will connect to the existing stormwater conveyance system. Because the area of increase in impermeable surfaces is relatively small, existing stormwater drainage system would not be significantly impacted. The project would not cause a substantial change to the erosion and accretion patterns long-term because the parking area construction would not alter the existing drainage pattern of the area. The proposed project is located with the 100-year flood zone; however, it would not impede flood flow. Impacts would be less than significant.
- d, e) **Less than Significant Impact.** The project would not have other water quality or groundwater sustainability impacts beyond those discussed under items a) and b) above. Due to its proximity to the San Rafael Bay, the proposed project site is located in a tsunami inundation area; however, the operational project would leave the area very similar to its current condition with no additional risk of pollutants being released due to inundation. During construction, the risk of release of pollutants during a hydrologic event would be minimized by adherence to the BMPs listed above. The project would comply with the Marin Countywide Water Pollution Prevention Program and the State Water Board's General Permit. Impacts would be less than significant.

XI. LAND USE AND PLANNING – Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

Environmental Setting

The project site is in a residential and public lands portion of the City of San Rafael. Existing land uses adjacent to the project site consist of open space, parks, single and multi-family residences, recreational uses, and City owned lands. The project site is within existing roads and access routes and their associated rights-of-way. The City of San Rafael General Plan, adopted in 2004 with various subsequent chapter amendments, provides policies and implementation strategies for management of the resources and land uses in the City, and the City Codes provide restrictions and requirements to protect resources and comply with local, state, and federal laws. Applicable General Plan policies are listed below. No habitat conservation plans have been adopted for the area.

Regulatory Setting

San Rafael General Plan

Land Use Element

LU-1. Planning Area and Growth to 2020. Plan the circulation system and infrastructure to provide capacity for the total development expected by 2020.

Neighborhood Element

NH-5. Safe Streets. Provide neighborhood streets that are safe, pleasant, and attractive to walk, cycle and drive along.

NH-8. Parking. Maintain well-landscaped parking lots and front setbacks in commercial and institutional properties that are located in or adjacent to residential neighborhoods. Promote ways to encourage parking opportunities that are consistent with the design guidelines.

NH-70. Access to Open Space. Provide public access to open space areas when projects are approved, including access to and along the shoreline, portions of the Canalfront, and San Quentin Ridge. Minimize public access conflicts with sensitive habitat areas and with nearby development, including parking conflicts.

NH-71. Gathering Places. Support efforts to provide places where neighbors can meet each other, such as at Pickleweed Park, the Community Center, or a public plaza.

Community Design Element

CD-5. Views. Respect and enhance to the greatest extent possible, views of the Bay and its islands, Bay wetlands, St. Raphael's church bell tower, Canalfront, marinas, Mt. Tamalpais, Marin Civic Center and hills and ridgelines from public streets, parks and publicly accessible pathways.

CD-19b. Lighting Plan. Require new development and projects making significant parking lot improvements or proposing new lighting to prepare a lighting plan consistent with the Design Guidelines for review by City planning staff.

Circulation Element

C-31. Residential Area Parking. Evaluate effective means to manage residential parking to minimize the impacts of excess demand.

Parks and Recreation Element

PR-8j. Neighborhood Park Improvements – Schoen Park. Prepare a park master plan to finalize Shoreline Park link, and to provide appropriate recreation amenities.

Safety Element

S-2. Location of Public Improvements. Avoid locating public improvements and utilities in areas with identified flood, geologic and/or soil hazards to avoid any extraordinary maintenance and operating expenses. When the location of public improvements and utilities in such areas cannot be avoided, effective mitigation measures will be implemented.

S-5. Minimize Potential Effects of Geological Hazards. Development proposed within areas of potential geological hazards shall not be endangered by, nor contribute to, the hazardous conditions on the site or on adjoining properties. Development in areas subject to soils and geologic hazards shall incorporate adequate mitigation measures. The City will only approve new development in areas of identified hazard if such hazard can be appropriately mitigated.

S-22b. Grading During the Wet Season. Discourage grading during the wet season and require that development projects implement adequate erosion and/or sediment control and runoff discharge measures.

Noise Element

N-9b. Mitigation for Construction Activity Noise. Through environmental review, identify mitigation measures to minimize the exposure of neighboring properties to excessive noise levels from construction-related activity.

Open Space Element

OS-4. Access to Open Space. Encourage provision of access to open space areas in the design of adjacent development. Secure access paths shown on Exhibit 34 as part of subdivision

approvals and design access paths to avoid or minimize neighborhood and user conflicts with sensitive wildlife habitat areas.

Discussion of Impacts

- a) **No Impact.** The project involves replacement of community park land with on-street parking spots. The project location is on parkland and along the current extent of the Canal Street ROW. The project would not physically divide an established community. No impacts would occur.
- b) **Less than Significant Impact.** A proposed project would have a significant impact if it were to conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. The proposed project is subject to several local policies, plans, and regulations, as described above. The primary objective of the proposed project is to replace the underutilized Schoen Park with much needed street parking in the Canal neighborhood. The project would maintain public access to open space, alleviate parking pressure, adhere to all safety standards, and would support efforts to increase usage of community areas. The proposed project would not conflict with the City of San Rafael General Plan or other applicable land use plans or policies. Impacts would be less than significant.

XII. MINERAL RESOURCES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2,12
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2,12

Discussion of Impacts

a, b) **No Impact.** The project site is not in or adjacent to any important mineral resource areas. Furthermore, the development of the proposed project would not preclude future excavation of oil or minerals should such extraction become viable. As such, there would be no loss of availability of known mineral resources and no impacts to mineral resources.

XIII. NOISE — Would the project result in:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1,2,9
b) Generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

Environmental Setting

The City of San Rafael Noise Ordinance limits construction hours to 7:00 A.M. to 5:00 P.M. Monday through Friday. The Director of Public Works/City Engineer may grant exemptions. Noise in the project site and vicinity is primarily from residences and vehicular traffic along roads. There are no nursing homes adjacent to the project site. The nearest sensitive noise receptors are residences in the community directly across Canal street from the Project site and students attending Pickleweed Children’s Center Preschool within the adjacent community center. Additionally, community members utilizing the Bay Trail and the Albert J. Boro Community Center could also be potentially impacted by project-induced noise.

Discussion of Impacts

a) ***Less than Significant Impact with Mitigation Incorporated.*** Sound is technically described in terms of amplitude (loudness) and frequency (pitch). The standard unit of sound amplitude measurement is the decibel (dB). The decibel scale is a logarithmic scale that describes the physical intensity of the pressure vibrations that make up any sound. The pitch of the sound is related to the frequency of the pressure vibration. Since the human ear is not equally sensitive to a given sound level at all frequencies, a special frequency-dependent rating scale has been devised to relate noise to human sensitivity. The A-weighted decibel scale (dBA) provides this compensation by discriminating against frequencies in a manner approximating the sensitivity of the human ear.

Noise, on the other hand, is typically defined as unwanted sound. A typical noise environment consists of a base of steady “background” noise that is the sum of many distant and indistinguishable noise sources. Superimposed on this background noise is the sound from individual local sources. These can vary from an occasional aircraft or train passing by to virtually continuous noise from, for example, traffic on a major highway.

Several rating scales have been developed to analyze the adverse effect of community noise on people. Since environmental noise fluctuates over time, these scales consider that the effect of noise upon people is largely dependent upon the total acoustical energy content of the noise, as well as the time of day when the noise occurs. Those that are applicable to this analysis are as follows:

- L_{eq} – A L_{eq} , or equivalent energy noise level, is the average acoustic energy content of noise for a stated period of time. Thus, the L_{eq} of a time-varying noise and that of a steady noise are the same if they deliver the same acoustic energy to the ear during exposure. For evaluating community impacts, this rating scale does not vary, regardless of whether the noise occurs during the day or the night.
- L_{max} – The maximum instantaneous noise level experienced during a given period of time.
- L_{min} – The minimum instantaneous noise level experienced during a given period of time.
- CNEL – The Community Noise Equivalent Level is a 24-hour average L_{eq} with a 5 dBA “weighting” during the hours of 7:00 P.M. to 10:00 P.M. and a 10 dBA “weighting” added to noise during the hours of 10:00 P.M. to 7:00 A.M. to account for noise sensitivity in the evening and nighttime, respectively. The logarithmic effect of these additions is that a 60 dBA 24 hour L_{eq} would result in a measurement of 66.7 dBA CNEL.

Noise environments and consequences of human activities are usually well represented by median noise levels during the day, night, or over a 24-hour period. For residential uses, environmental noise levels are generally considered low when the CNEL is below 60 dBA, moderate in the 60–70 dBA range, and high above 70 dBA.³⁸ Noise levels greater than 85 dBA can cause temporary or permanent hearing loss. Examples of low daytime levels are isolated, natural settings with noise levels as low as 20 dBA and quiet suburban residential streets with noise levels around 40 dBA. Noise levels above 45 dBA at night can disrupt sleep. Examples of moderate level noise environments are urban residential or semi-commercial areas (typically 55–60 dBA) and commercial locations (typically 60 dBA). People may consider louder environments adverse, but most will accept the higher

³⁸ *Office of Planning and Research, State of California General Plan Guidelines, October 2003 (in coordination with the California Department of Health Services).*

levels associated with more noisy urban residential or residential-commercial areas (60–75 dBA) or dense urban or industrial areas (65–80 dBA).

It is widely accepted that in the community noise environment the average healthy ear can barely perceive CNEL noise level changes of 3 dBA. CNEL changes from 3 to 5 dBA may be noticed by some individuals who are extremely sensitive to changes in noise. A 5 dBA CNEL increase is readily noticeable, while the human ear perceives a 10 dBA CNEL increase as a doubling of sound.

Noise levels from a particular source generally decline as distance to the receptor increases. Other factors, such as the weather and reflecting or barriers, also help intensify or reduce the noise level at any given location. A commonly used rule of thumb for roadway noise is that for every doubling of distance from the source, the noise level is reduced by about 3 dBA at acoustically “hard” locations (i.e., the area between the noise source and the receptor is nearly complete asphalt, concrete, hard-packed soil, or other solid materials) and 4.5 dBA at acoustically “soft” locations (i.e., the area between the source and receptor is normal earth or has vegetation, including grass). Noise from stationary or point sources is reduced by about 6 to 7.5 dBA for every doubling of distance at acoustically hard and soft locations, respectively. Noise levels are also generally reduced by 1 dBA for each 1,000 feet of distance due to air absorption. Noise levels may also be reduced by intervening structures – generally, a single row of buildings between the receptor and the noise source reduces the noise level by about 5 dBA, while a solid wall or berm reduces noise levels by 5 to 10 dBA. The normal noise attenuation within residential structures with open windows is about 17 dBA, while the noise attenuation with closed windows is about 25 dBA.³⁹

Table 1 lists the Federal Transit Administrations typical construction equipment noise levels at 50 feet.

Table 1. Construction Equipment Noise Generation

Equipment	Typical Noise Level (dBA) 50 ft from Source	Equipment	Typical Noise Level (dBA) 50 ft from Source
Air Compressor	81	Jack Hammer	88
Backhoe	80	Loader	85
Ballast Equalizer	82	Paver	89
Ballast Tamper	83	Pile-driver (Impact)	101
Compactor	82	Pile-driver (Sonic)	96

³⁹ National Cooperative Highway Research Program Report 117, *Highway Noise: A Design Guide for Highway Engineers*, 1971.

Equipment	Typical Noise Level (dBA) 50 ft from Source	Equipment	Typical Noise Level (dBA) 50 ft from Source
Concrete Mixer	85	Pneumatic Tool	85
Concrete Pump	82	Pump	76
Concrete Vibrator	76	Roller	74
Crane, Derrick	88	Saw	76
Crane, Mobile	83	Scarifier	83
Dozer	85	Scraper	89
Generator	81	Shovel	82
Grader	85	Spike Driver	77
Impact Wrench	85	Truck	88

Source: Federal Transit Administration. *Transit Noise and Vibration Impact Assessment*, 2006

Construction activities would generate temporary noise from equipment use; the most common noise generated would be from mobile diesel equipment such as excavators, rollers, trucks, cranes, and pavers. Activities would be restricted to the hours of 7:00 A.M. to 5:00 P.M. Monday through Friday, unless otherwise approved in writing by the Director of Public Works.

Table 1 illustrates typical noise levels from construction equipment at a reference distance of 50 feet. Noise levels from construction equipment attenuate at a rate of six dBA per doubling of distance. Therefore, the noise levels at a distance of 100 feet would be 6 dBA less than those shown in Table 1. Construction equipment would generate maximum noise levels of approximately 89 decibels (dB) at 50 feet.

Construction noise levels may periodically exceed noise standards in the existing Noise Ordinance, but the temporary noise from construction would not cause a substantial increase in ambient noise or expose sensitive receptors to unacceptable noise levels for long periods of time. Impacts associated with construction noise would cause a potentially significant, temporary increase in noise levels, but incorporation of Mitigation Measure NOISE-1 would reduce noise impacts to a less-than-significant level.

Long-term operational noise impacts would be less than significant because the conditions would be similar to existing noise levels as cars routinely travel through the project area currently.

Mitigation Measure NOISE-1: The City shall incorporate the following practices into the construction documents to be implemented by the project contractor:

- Construction hours shall be limited to 7:00 A.M. to 5:00 P.M. Monday through Friday, unless otherwise approved in writing by the Director of Public Works. Saturday work, if approved, would follow the same working hours as during the work week.
- Notify businesses, residences, and noise-sensitive land uses adjacent to construction sites of the construction schedule in writing. Designate the City's construction manager as responsible for responding to any local complaints about construction noise. The construction manager shall determine the cause of the noise complaints (for example starting too early, or a bad muffler) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the construction manager at the construction site.
- Maximize the physical separation between noise generators and noise receptors. Such separation includes, but is not limited to, the following measures:
 - Use heavy-duty mufflers for stationary equipment and barriers around particularly noisy areas of the site or around the entire site;
 - Where feasible, use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors;
 - Locate stationary equipment to minimize noise impacts on the community; and
 - Minimize backing movements of equipment.
- Use quiet construction equipment whenever possible.
- Impact equipment (e.g., jack hammers and pavement breakers) shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Compressed air exhaust silencers shall be used on other equipment. Other quieter procedures, such as drilling rather than using impact equipment, shall be used whenever feasible.
- Prohibit unnecessary idling of internal combustion engines.

b) **Less than Significant Impact.** Ground-borne vibration and noise is typically associated with blasting operations, the use of pile drivers, and large-scale demolition activities. The proposed project would not require the use of any of the abovementioned methods that would produce excessive ground-borne vibrations and noise. During project operation, the vehicles utilizing the area would not create ground-borne vibrations. As such, no excessive ground-borne vibrations would be generated by the proposed project and these impacts would be less than significant.

c) **No Impact.** The nearest public airport to the project site is the Marin County Airport (Gross Field), located approximately 12.5 miles to the north-northwest. The project site is also located approximately 3.6 miles southeast of the private San Rafael airport. This distance precludes the possibility that the project would expose people residing or working in the project area to excessive noise in combination with aviation noise. No impacts in this regard would occur.

XIV. POPULATION AND HOUSING — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

Environmental Setting

The project site is in open park land in the City of San Rafael, zoned for parks, and surrounded by residential, park, and conservation land uses. There are no homes located within the project site.

Discussion of Impacts

a, b) **No Impact.** The project would create new on-street public parking to reduce parking demand in the City of San Rafael. The increased parking availability would alleviate parking stress in the City, but would not encourage additional housing development or population growth. The project would be constructed mainly within City property and would not displace people or housing. As the project does not include new housing, it would not result in a substantial increase in population or housing units in the City. No impacts would occur.

XV. PUBLIC SERVICES — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the public services:					
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1

Environmental Setting

San Rafael Fire Department

The San Rafael Fire Department provides life safety emergency and non-emergency services in the areas of fire protection, technical rescue, emergency medical services, and disaster response. The Department operates 7 Fire Stations with 90 personnel 24/7 that provide these services within the City limits and other areas as defined through contracts and mutual aid agreements with bordering areas.

San Rafael Police Department

The San Rafael Police Department has been in existence since 1955. In its current configuration, the Chief of Police directs a staff of 65 sworn and 24 non-sworn employees. Patrol is the largest division led by a Captain and includes the Traffic Unit, SWAT team, and Foot-beat. The Support Services Captain oversees Investigations, which is comprised of one lieutenant, one sergeant and four detectives, one School Resource Officer, a one sergeant-two officer Directed Patrol Unit, Youth Services Counseling, Records, Property Evidence, Dispatch, Permits and Personnel and Training.

San Rafael City Schools

The San Rafael City Schools (SRCS) includes the San Rafael Elementary School District and the San Rafael High School District, with a total student population of nearly 7,000. The two districts are governed by one school board and one district office administration. The Elementary District is composed of nine schools. The High School District provides secondary education to students residing in two elementary districts: Lucas Valley School District and San Rafael Elementary District. The High School District has two comprehensive 9-12 high schools (San Rafael High and Terra Linda High) and a continuation high school (Madrone High).

Parks and Recreational Facilities

The City of San Rafael has 25 City-owned parks totaling 140 acres, eight county parks totaling 532 acres, one State park with 1,640 acres and three community centers. There are 3,285 acres of open space within the city limits of San Rafael, or approximately 25 percent of the City's land area, which is owned or in part by the City of San Rafael. There is almost 7,300 acres of combined City and County open space within San Rafael's Sphere of Influence.

Discussion of Impacts

- a) ***Less than Significant Impact.*** Given the proposed project would not permanently increase the existing residential or employment population in the City, the project would not result in a long-term increase in the demand for public services, schools, public facilities or require construction of new governmental facilities. The purpose of the project is to replace an underutilized public park with on-road street parking. There will be the loss of the 0.15-acre Schoen Park as a result of the project. However, recent improvements to nearby Pickleweed Park have been made which mitigates for the loss of the public parkland. The impact to overall parks in the City of San Rafael will be less than significant. There is some potential for construction activities to slow emergency response times in a temporary and minor way due to the closure of the eastbound lane of the portion of Canal Street that passes through the project area. All public services will be notified prior to construction so they can plan accordingly. Impacts to public services would therefore be less than significant.

XVI. RECREATION — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Environmental Setting

The proposed project will involve the complete removal of Schoen Park. This 0.15-acre park was deemed to be underutilized by the City of San Rafael. Currently, Schoen Park houses dilapidated workout equipment and one wooden bench. Pickleweed Park is located approximately 800 feet west of Schoen Park. In 2019 the City installed new playground equipment at Pickleweed Park to enhance its appeal.

Discussion of Impacts

a, b) **Less than Significant Impact.** Due to the fact that the City has deemed Schoen Park in its current state as underutilized, the loss of the park will not create a significant impact on other City park resources. The recent improvements to the nearby Pickleweed Park have improved its capacity to withstand more park goers. The loss of the park will not require the construction or expansion of recreational facilities. The impact of the project will be less than significant on recreational resources.

XVII. TRANSPORTATION — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1, 3
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2

Environmental Setting

The project site is located on public park lands of Schoen Park and encompasses the stretch of the northern lane of Canal Street from Bahia Way to Spinnaker Point Drive/Portsmouth Cove. There are sidewalks within the project area along the northern side of Canal Street. The San Francisco Bay Trail, which runs along the east side of the project site adjacent to San Rafael Bay, runs parallel to the project site adjacent to its northern boundary. The Bay trail offers pedestrian and bicycle access along the Bay’s waterfront. The proposed work would be contained to an area outside of the 100-foot shoreline band, and would therefore stop short of the bay trail.

The San Rafael General Plan 2020 Circulation Element calls out San Rafael’s circulation needs in the following categories: roadway improvements, school transportation, transit users, transit services, paratransit services, bicycle and pedestrian facilities, parking facilities, airport facilities, and funding needs. It also identifies the City’s main highways and arterials. Highway 580, approximately 0.65 miles southwest of the project site, is the closest highway. Point San Pedro Road (0.3 miles northwest) and Bellam Boulevard (0.4 miles southwest) are the closest major arterial roads to the project site. Canal Street runs through and allows access to the project site, but is not listed as a major or minor arterial road. There are access roads to the Bay Trail off of the Canal Street sidewalk. Kerner Boulevard is the closest minor arterial road to the project site.

Discussion of Impacts

- a) **Less than Significant Impact.** A significant impact may occur if the adopted California Department of Transportation (Caltrans) and Marin County Congestion Management Agency (CMA) thresholds for a significant project impact would be exceeded. To address the increasing public concern that traffic congestion is impacting the quality of life and

economic vitality of the State of California, the Congestion Management Program (CMP) was enacted by Proposition 111. The CMP designated a transportation network including all State highways and some arterials within the County to be monitored by local jurisdictions. If the LOS standard deteriorates on the CMP network, then local jurisdictions must prepare a deficiency plan to be in conformance with the CMP program.

The proposed project would not permanently increase traffic on local roads or highways. Traffic flow will be temporarily interrupted during construction, but no major arterials or highways will be affected. Impacts would be less than significant.

- b) ***Less than Significant Impact.*** A significant impact may occur if the proposed project were to be inconsistent with provisions outlined in CEQA Guidelines section 15064.3, subdivision (b), which sets forth criteria for analyzing transportation impacts. Under the CEQA Guidelines, a lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including a qualitative analysis.

The proposed project would have little to no impact on vehicle miles traveled in and around the project site on an operational level. The creation of additional parking spaces would eliminate some travel as drivers would not have to spend as much time searching for available spaces.

Construction traffic (equipment and materials transport and daily worker traffic) would slightly increase traffic on local roads during the temporary construction phase of the proposed project. Temporary construction traffic would be limited to equipment delivery and material transport, and a few employee vehicles on a daily basis, which would be parked on-site. The temporary construction-related traffic would not result in a noticeable increase in traffic on local roads. The eastbound lane of Canal Street will be temporarily closed during construction. Control measures would be in place during the construction phase to alert motorists to potential delays. These measures would include advance warnings signs such as reflective signs, changeable message boards, cones, and/or barricades. With these measures and the temporary nature of construction-related traffic, impacts on traffic would be less than significant.

- c) ***Less than Significant Impact.*** A significant impact may occur if a project were to include a new roadway design, introduce a new land use or permanent project features into an area with specific transportation requirements and characteristics that have not been previously experienced in that area, or if project access or other features were designed in such a way as to create hazardous conditions. Currently, there is inadequate street parking along the northern edge of Canal Street. The new design will maintain the current extent of Canal Street while extending the parking area into what is currently Schoen Park. The design uses smooth curbs and allows for the ROW to remain upon project completion. The impact of the new design features will be less than significant.

- d) ***Less than Significant Impact.*** The proposed project is located along Canal Street. According to the San Rafael GP, Canal Street is not a major roadway. The eastbound

lane of Canal Street in the vicinity of the project area will be closed during construction activities. Additional minor delays can be expected due to slower moving construction vehicle traffic accessing the site. As stated in the standard construction BMPs outlined in the Project Description, the City or its contractor would notify and coordinate with law enforcement and emergency service providers prior to the start of construction to ensure minimal disruption to service during construction. Due to this and the short-term nature of the construction, impacts would be less than significant.

XVIII. TRIBAL CULTURAL RESOURCES — Would the project?	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:					
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, 13
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1, 13

Environmental Setting

ALTA archaeologist Dean Martorana contacted the Native American Heritage Commission (NAHC) on November 18, 2020 to request a review of the Sacred Lands file for information on Native American cultural resources in the study area and to request a list of Native American contacts in this area. No response has been received to date. As planning proceeds, a follow up letter requesting comments from the Native American community will be incorporated into the environmental documentation as necessary.

Regulatory Setting

Assembly Bill 52

In September 2014, the California Legislature passed Assembly Bill (“AB”) 52, which added provisions to the Public Resources Code (“PRC”) concerning the evaluation of impacts on tribal

cultural resources under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 now requires lead agencies to analyze a project's impacts on "tribal cultural resources," separately from archaeological resources (PRC Section 21074; 21083.09). Under AB 52, "tribal cultural resources" include "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" that are either (1) listed, or determined to be eligible for listing, on the state or local register of historic resources; or (2) a resource that the lead agency chooses, in its discretion, to treat as a tribal cultural resource (PRC Section 21074).

AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (PRC Sections 21080.3.1, 21080.3.2, 21082.3). If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document must discuss (1) whether the proposed project has a significant impact on an identified tribal cultural resource and (2) whether feasible alternatives or mitigation measures avoid or substantially less the impact on the identified tribal cultural resource (PRC Section 21082.3(b)). Finally, AB 52 required the Office of Planning and Research to update Appendix G of the CEQA Guidelines by July 1, 2016 to provide sample questions regarding impacts to tribal cultural resources (PRC Section 21083.09). AB 52's provisions apply to projects that have a notice of preparation filed on or after July 1, 2015.

Discussion of Impacts

a-i, ii) ***Less than Significant Impact with Mitigation Incorporated.*** Review of historic registers and inventories indicate that no historical resources are present in the project area. No state, local, or National Register-listed or eligible properties are located within the 0.5-mile visual area of the APE. No cultural resources potentially eligible to the California Register of Historic Resources were discovered during ALTA's fieldwork. There is always the potential to uncover previously buried cultural resources. In the even that these are discovered, the appropriate tribes (e.g., Federated Indians of Graton Rancheria) will be contacted.

Furthermore, per Public Resources Code 5097.98 and Health and Human Safety Code 7050.5, if human remains are encountered, excavation or disturbance of the location shall be halted in the vicinity of the find, and the County Coroner contacted. If the Coroner determines the remains are Native American, the Coroner shall contact the Native American Heritage Commission, who shall identify the person or persons believed to be most likely descended from the deceased Native American in order to provide guidance on handling the remains.

Implementation of Mitigation Measure CULT-1 in Section V, along with compliance with State law, would ensure that impacts to tribal cultural resources remain less than significant.

XIX. UTILITIES AND SERVICE SYSTEMS — Would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Discussion of Impacts

- a) **Less than Significant Impact.** The proposed project calls for replacement of the underutilized Schoen Park with on-street parking. The cover of a PG&E utility box will be adjusted to match the finished grade of the new sidewalk. All sidewalks constructed will have gutters for stormwater conveyance that will connect to existing stormwater drainage systems. There is an existing water meter owned by Marin Municipal Water District that would be removed to allow for the new parking spots to be constructed. Included within the project plans is the construction of an onsite bioretention basin. The basin will collect onsite surface water that will be conveyed through the valley gutters constructed along the sidewalks. A connection to the existing municipal stormwater system would be

constructed within the bioretention basin. The proposed project would not require much power, but an on-site generator would provide any needed electricity. No other utilities or telecommunication facilities would be required or affected. Less than significant impacts would occur.

- b, c) **No Impact.** Neither construction nor operation of the project would generate wastewater or consume potable water. As the proposed project does not have an element that would increase the residential or employment population of the area, there would be no impact related to water supply, wastewater treatment capacity, or infrastructure.
- d, e) **Less than Significant Impact.** The project would generate soil spoils and solid waste from removal of pavement and concrete structures comprising the extent of Schoen Park. Additionally, the park equipment on-site will need to be disposed of. The 650 cubic yards of soil and existing road infrastructure will be disposed of in accordance with all applicable regulations. Other solid waste would be properly disposed of or recycled in a nearby landfill or approved disposal facility with capacity to receive the waste. Any materials used during construction would be properly disposed of in accordance with federal, state, and local regulations. Impacts related to solid waste facilities, statutes, and regulations would be less than significant.

XX. WILDFIRE — If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant</i>	<i>No Impact</i>	<i>Source</i>
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,2
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1,10

Environmental Setting

The San Rafael Wildfire Prevention and Protection Action Plan outlines measures to reduce wildfire risk throughout the City. The project site is not within the Wildland Urban Interface and is therefore not designated as a Very High Severity Zone per the San Rafael Fire Department.⁴⁰ The proposed project site is on park land adjacent to Tiscornia Marsh and residential communities, with very little slope.

Discussion of Impacts

a-d) **Less than Significant Impact.** The proposed project would not impair an adopted emergency response plan or emergency evacuation plan due to its location on City parkland away from major roads. The project site is flat, outside the Wildland Urban Interface, and is not considered a High Severity Zone for wildfire. The project is replacing

⁴⁰ City of San Rafael Fire Department. *Wildland Urban Interface Map*. Available online at: <https://www.cityofsanrafael.org/prepare-for-wildfire/>. Accessed June 19, 2020.

a park with parking areas and does not require installation of additional utility infrastructure over the current baseline condition. The proposed project would pose less than significant impacts related to exacerbating or exposing people to wildfire risk.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE	<i>Potentially Significant Impact</i>	<i>Less than Significant with Mitigation Incorporated</i>	<i>Less than Significant Impact</i>	<i>No Impact</i>	<i>Source</i>
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1
c) Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1

Discussion of Impacts

- a) ***Less than Significant with Mitigation Incorporation.*** The incorporation of the mitigation measures included in Section IV (Biological Resources) would reduce potential impacts to a less-than-significant level. The project site does not contain any resource listed in, or determined to be eligible by, the State Historical Resource Commission and does not contain a resource included in a local register of historic resources or identified as significant in a historical resource survey. Additionally, the project site does not contain any object, building, structure, site, area, place, record, or manuscript that a lead agency determined to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. However, cultural resources could potentially be uncovered during construction.

Mitigation measures included in Section V (Cultural Resources) would reduce potential impacts to a less-than-significant level.

- b) ***Less Than Significant with Mitigation Incorporation.*** Cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. The analysis within this Initial Study demonstrates that the project would not have any individually limited, but cumulatively considerable impacts. As presented in the analysis in Biological Resources, Cultural Resources, Noise, and Tribal Cultural Resources sections, any potentially significant impacts would be less than significant after mitigation. Due to the limited scope of direct physical impacts to the environment associated with construction, the project's impacts are project-specific in nature. Compliance with the conditions of approval issued for the proposed development would further assure that project-level impacts would not be cumulatively considerable. Consequently, the project along with other cumulative projects would create a less than significant cumulative impact with respect to all environmental issues.
- c) ***Less Than Significant Impact.*** With implementation of the construction measures and BMPs discussed in the Project Description, the project would not result in substantial adverse effects to human beings, either directly or indirectly.

CHECKLIST INFORMATION SOURCES

1. Professional judgment and expertise of the environmental/technical specialists evaluating the project, based on a review of existing conditions and project details, including standard construction measures and technical reports
2. City of San Rafael General Plan, 2004
3. Site Plans
4. California Department of Conservation, 2020
5. Marin Countywide Plan, 2007
6. U.S. Fish and Wildlife Service, California Department of Fish and Game, and California Native Plant Society species lists
7. Natural Resources Conservation Service, 2017
8. EnviroStor Database, 2020
9. City of San Rafael Noise Ordinance
10. ABAG Hazards Mapping, 2020
11. Bay Area Air Quality Management District, 2020
12. USGS Mineral Resources Data System, 2011
13. ALTA Archaeological Survey Report

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RESPONSE TO COMMENTS ON THE DRAFT INITIAL STUDY/PROPOSED MITIGATED NEGATIVE DECLARATION

On May 24, 2021, the City of San Rafael (Lead Agency) released for public review a Draft Initial Study/Proposed Mitigated Negative Declaration for the Proposed San Quentin Pump Station Replacement Project (SCH# 2021050536). The public review and comment period on the Draft Initial Study began on May 24, 2021 and closed on June 22, 2021.

The Draft Initial Study/Proposed Mitigated Negative Declaration and the response to comments on the Draft Initial Study/Proposed Mitigated Negative Declaration are informational documents prepared by the Lead Agency that must be considered by decision-makers before approving the proposed project and that must reflect the Lead Agency's independent judgment and analysis (CEQA Guidelines, Section 15090).

This section usually responds to the comments and questions on the Draft Initial Study/Proposed Mitigated Negative Declaration circulated by the City to public agencies and the public as required by CEQA. However, no comments were submitted on the Draft Initial Study/Proposed Mitigated Negative Declaration. This Final Initial Study/Mitigated Negative Declaration does not describe a project having any new or substantially more severe impacts than those identified and analyzed in the Draft Initial Study/Proposed Mitigated Negative Declaration. Therefore, in accordance with CEQA Guidelines Section 15073.5, recirculation of a Draft Initial Study/Proposed Mitigated Negative Declaration is not required.

SCHOEN PARK MODIFICATIONS PROJECT MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to CEQA Guidelines (California Code of Regulations, Title 14), which state the following:

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.

The MMRP lists the potentially significant impacts and proposed mitigation measures identified in the Schoen Park Modifications Project Initial Study/Mitigated Negative Declaration. The MMRP describes the timing of implementation of the mitigation measures (i.e., when the measure will be implemented) and the City of San Rafael staff or individual responsible for ensuring implementation of the measures. Finally, the MMRP describes the City of San Rafael staff member or individual responsible for monitoring the mitigation measures.

Mitigation Monitoring and Reporting Program

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
BIOLOGICAL RESOURCES				
<p>Impact IV.a: Sensitive or special-status species</p>	<p>Mitigation Measure BIO-1: Mitigation measures for avoidance and minimization of effects to SMHM shall be incorporated into the permits or required authorizations and specifications, which the project proponent shall follow. The following avoidance and minimization measures are required:</p> <ol style="list-style-type: none"> 1. A qualified biological monitor (i.e., biologist whose credentials for SMHM monitoring have been previously approved by the USFWS) shall be present on-site during all vegetation removal and initial ground-disturbing work. The biological monitor shall document compliance with the permit conditions and all take avoidance and minimization measures. The monitor(s) shall have the authority to halt construction, if necessary, if there is the potential for a listed species to be harmed or when non-compliance events occur. The biological monitor(s) shall be the contact person for any employee or contractor who might inadvertently kill or injure a listed species, or anyone who finds a dead, injured, or entrapped listed species. 2. If any mouse is observed at any time during construction, work shall not be initiated or shall be stopped immediately by the biological monitor until the mouse leaves the vicinity of the work area of its own 	<p>Implementation Responsibility: City-approved Consulting Biologist</p> <p>Monitoring Frequency: During construction</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>

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	<p>accord. The biological monitor or any other persons at the site shall not pursue, capture, or handle any mouse observed.</p> <p>3. Night work is not anticipated and shall be avoided to the fullest extent feasible. If night work is necessary, all lighting shall be directed away from marsh and wetland areas to avoid impacting the natural behavior of SMHM.</p> <p>4. All vehicles and heavy equipment stored outside of exclusion fencing and in the vicinity of suitable SMHM habitat shall be checked for mice before work commences each morning.</p> <p>5. When construction activities are to take place in potential SMHM habitat (emergent marsh and upland areas within 50 feet of emergent marsh), vegetation removal in work areas shall be performed to remove cover and render these areas unattractive to SMHM.</p> <ul style="list-style-type: none"> a. Only non-motorized equipment or hand-held motorized equipment (i.e., string trimmers) shall be used to remove the vegetation. b. Vegetation shall be cut in at least two passes: with the first pass cutting vegetation at approximately half of its height above the ground (mid-canopy) and the next pass, or subsequent passes, cutting vegetation to ground-level or no higher than 1 inch. c. The biological monitor shall inspect areas of 			

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	<p>vegetation removal immediately prior to the initiation of removal to search for SMHM and “flush” small mammals out of the area and toward adjacent marsh areas that will not be subject to removal. If any mouse is observed, work shall be stopped immediately by the biological monitor until the mouse leaves the vicinity of the vegetation removal of its own accord.</p> <p>d. Vegetation removal shall start in the position furthest from the highest quality and most accessible SMHM habitat outside of the work area, and progress toward that habitat, such that SMHM are protected to the greatest degree possible as they move out of the focal area.</p> <p>e. Cut vegetation shall be removed from the exclusion area (work area) so that no cut vegetation remains there once the exclusionary fence is installed, to discourage SMHM from being attracted to the area.</p> <p>f. All non-native, invasive vegetation removed shall be discarded at a location outside of any marsh areas to prevent reseeding.</p> <p>6. Following completion of vegetation removal, temporary exclusionary fencing shall be installed to isolate work areas and prevent SMHM from entering work areas during construction.</p> <p>a. The fencing shall be installed between suitable</p>			

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	<p>habitat areas (e.g., salt marsh) and the defined work area (or areas) adjacent to suitable habitat immediately following vegetation removal and prior to the start of construction/excavation activities. The fencing should be installed along the upland edge of the Bay Trail for the portions of the project area directly adjacent to the marsh. The fence should extend from the edge of the parking lot at the Albert J. Boro Community Center to the walkway along the eastern edge of the project area. When the fencing reaches the walkway, it should turn south west and follow the walkway until it reaches the road.</p> <p>b. The fence shall consist of a non-textured, slick material that does not allow SMHM to pass through or climb, or silt fence with slick tape (or an effectively similar material) a minimum of 6 inches wide fixed to the fence to render it non-climbable. The bottom should be buried to a depth of at least 4 inches so that animals cannot crawl under the fence. Fence height should be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet.</p> <p>c. Fence posts should be placed facing the work area side (i.e., vegetation-cleared side) and not the side of the fencing facing intact habitat areas. The fencing shall be installed under the supervision of a biological monitor.</p>			

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	<p>d. The biological monitor shall routinely inspect exclusionary fencing to ensure that it remains intact and effective. Fencing deficiencies noted shall be immediately reported to the contractor and repaired promptly.</p>			
	<p>Mitigation Measure BIO-2: If construction work is between February 1 and August 31, protocol-level surveys for California Ridgway's rail shall be conducted to determine the extent and location of nesting California Ridgway's rail. Results of protocol breeding surveys shall be submitted to the USFWS for a determination of whether work proposed within 700 feet of a California Ridgway's rail nest (or the activity center of vocalizing rails) discovered during such surveys should be rescheduled to occur during the period from September 1 to January 31. If no California Ridgway's rails are observed during protocol surveys during a given year, the USFWS typically allows construction to occur adjacent to California Ridgway's rail habitat during the breeding season of the same year.</p>	<p>Implementation Responsibility: City of San Rafael Department of Public Works</p> <p>Monitoring Frequency: Prior to ground disturbance</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>
<p>Impact IVd. Wildlife movement and nursery sites</p>	<p>Mitigation Measure BIO-3: Mitigation measures for avoidance and minimization of effects to nesting birds shall be incorporated into the permits or required authorizations and specifications, which the project proponent shall follow. For the avoidance of impacts to native nesting birds protected by the MBTA and CFGC, the following avoidance and minimization measures are proposed as a part of the permit applications:</p>	<p>Implementation Responsibility: City of San Rafael Department of Public Works</p> <p>Monitoring</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>

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	<ol style="list-style-type: none"> 1. Project activities shall be initiated to the extent feasible, outside of the nesting season. The nesting season is defined here as being from February 1 to August 31 and therefore work shall commence between September 1 and January 31. 2. If this is not possible, and project activities are initiated during the nesting season, then a nesting bird survey shall be conducted by a qualified wildlife biologist no more than 14 days prior to the start of project activities. 3. If nests are identified, a no-disturbance buffer shall be implemented to avoid impacts to nesting birds and should remain in place until all young are fledged or the nest otherwise becomes inactive. Buffers typically range from 25 feet to 500 feet depending on the species. 	<p>Frequency: Prior to ground disturbance</p>		

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CULTURAL RESOURCES				
Impact V.b: Archaeological Resources	<p>Mitigation Measure CULT-1: The City or its contractor shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Sections 5097.5, 5097.9 et seq., regarding the discovery and disturbance of cultural materials, should any be discovered during project construction.</p> <p>In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).</p>	<p>Implementation Responsibility: City-approved Archaeologist</p> <p>Monitoring Frequency: During construction</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>
NOISE				
Impact XIII.a: Substantial temporary increase in ambient	Mitigation Measure NOISE-1: The City shall incorporate the following practices into the construction documents to	Implementation Responsibility:	Monitoring Responsibility:	Initials _____

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noise levels	<p>be implemented by the project contractor:</p> <ul style="list-style-type: none"> ▪ Construction hours shall be limited to 7:00 A.M. to 5:00 P.M. Monday through Friday, unless otherwise approved in writing by the Director of Public Works. Saturday work, if approved, would follow the same working hours as during the work week. ▪ Notify businesses, residences, and noise-sensitive land uses adjacent to construction sites of the construction schedule in writing. Designate the City's construction manager as responsible for responding to any local complaints about construction noise. The construction manager shall determine the cause of the noise complaints (for example starting too early, or a bad muffler) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the construction manager at the construction site. ▪ Maximize the physical separation between noise generators and noise receptors. Such separation includes, but is not limited to, the following measures: <ul style="list-style-type: none"> ○ Use heavy-duty mufflers for stationary equipment and barriers around particularly noisy areas of the site or around the entire site; ○ Where feasible, use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors; ○ Locate stationary equipment to minimize noise impacts on the community; and 	<p>Contractor</p> <p>Monitoring Frequency:</p> <p>During construction</p>	<p>City of San Rafael Department of Public Works</p>	<p>Date _____</p>

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	<ul style="list-style-type: none"> ○ Minimize backing movements of equipment. ▪ Use quiet construction equipment whenever possible. ▪ Impact equipment (e.g., jack hammers and pavement breakers) shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Compressed air exhaust silencers shall be used on other equipment. Other quieter procedures, such as drilling rather than using impact equipment, shall be used whenever feasible. ▪ Prohibit unnecessary idling of internal combustion engines. 			
TRIBAL CULTURAL RESOURCES				
Impact XVIII.a, b: Tribal Cultural Resources	<p>Mitigation Measure CULT-1: The City or its contractor shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Sections 5097.5, 5097.9 et seq., regarding the discovery and disturbance of cultural materials, should any be discovered during project construction.</p> <p>In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds (§15064.5 [f]). Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements</p>	<p>Implementation Responsibility: City-approved Archaeologist</p> <p>Monitoring Frequency: During construction</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>

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	<p>(e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).</p>			