



SAN RAFAEL
THE CITY WITH A MISSION

**INTER-DEPARTMENTAL
MEMORANDUM**

Community Development Department – Planning Division

DATE: September 28, 2021
TO: Chair Shingai Samudzi and Members of the Planning Commission
FROM: David Hogan, Contract Planner
SUBJECT: Correct Resolution for 52 – 54 Fremont Road Project (LLA18-005, ED18-066, ED20-044, EX19-010)

Please find the correct resolution for the abovementioned project. This replaces the incorrect resolution that was previously provided to you. Staff apologizes for any confusion this may have created.

RESOLUTION NO. _____**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION, APPROVE A MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVE APPLICATIONS FOR A LOT LINE ADJUSTMENT (LLA18-005), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-066), ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED20-044) WITH EXCEPTION (EX19-010) ON TWO PARCELS LOCATED AT 52 AND 54 FREMONT ROAD (APNS: 012-043-11 AND 012-043-12)**

WHEREAS, on July 30, 2018, the applicants submitted applications for a Lot Line Adjustment (LLA18-005), Environmental and Design Review Permit (ED18-006) to allow a new single-family residence fronting on Marquard Avenue; and

WHEREAS, on October 14, 2019, the applicants submitted an application for an Exception (EX19-010) for setback encroachments and deviations from minimum natural state for the 54 Fremont Road lot; and

WHEREAS, on November 19, 2019, the project was considered by the Design Review Board (DRB) which provided direction on the project design and continued the project off calendar; and

WHEREAS, based upon the comments provided by the Design Review Board the applicants revised the proposed project and resubmitted project plans on March 5, 2020; and

WHEREAS, in response to Shelter in Place Orders issued by the State of California and Marin County associated with COVID-19, the City Manager authorized an interim review process for projects subject to review by the City of San Rafael Design Review Board through issuance of a Policy Statement, signed on April 1, 2020; and

WHEREAS, on October 7, 2020, the project received Design Review by a subcommittee of the City of San Rafael Design Review Board consistent with the Policy Statement described above and the subcommittee unanimously recommended approval of the lot line adjustment by the Planning Commission, and requested that the applicant provide additional landscaping on the proposed upper lot and evaluate whether or not providing additional parking on Fremont Road was feasible, and recommended the project come back for review by the DRB after approval by the Planning Commission; and

WHEREAS, on October 8, 2020, the applicants submitted an application for an Environmental and Design Review Permit (ED20-044) to allow for the partial rebuilding the existing single-family residence at 54 Fremont Road; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a lot line adjustment, environmental and design review permits, and exception are a 'project,' making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project and along with the Mitigated Negative Declaration was circulated for public review and comment between October 30, 2020, and November 20, 2020; and

WHEREAS, on October 29, 2020, the subject site was posted with a public notice regarding the Mitigated Negative Declaration prepared for this project and notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, based upon the public comments that were received on the October 2020 IS/MND, a Revised IS/MND was prepared and recirculated to pertinent agencies and interested members of the public for a 20-day review period, commencing on August 14, 2021, and concluding on September 3, 2021; and

WHEREAS, on August 13, 2021, the subject site was posted with a public notice regarding the Mitigated Negative Declaration prepared for this project and notices were published in a local newspaper of general circulation in the area on August 14, 2021, and mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, as demonstrated in the preparation of a Revised Initial Study/Mitigated Negative Declaration (IS/MND), all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures; including impacts to biologic resources, cultural and tribal resources, geology and soils, and hazards consistent with CEQA Guidelines; and

WHEREAS, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all conditions required to mitigate any environmental impact to a level of less than significant. All the identified mitigation measures have also been included as conditions of project approval; and

WHEREAS, On August 13, 2021, the subject site was posted with a public notice regarding the Planning Commission meeting; and

WHEREAS, on August 14, 2021, notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 300 feet, consistent with the requirements of the San Rafael Municipal Code; and

WHEREAS, on September 14, 2021, the Planning Commission continued the project to the September 28, 2021, meeting without receiving a staff presentation or public testimony; and

WHEREAS, on September 28, 2021, the Planning Commission held a public hearing on the proposed project, the IS/MND, and MMRP, Lot Line Adjustment, Environmental Design Review Permits, and Exception, accepting all oral and written public testimony and the written report of the Department of Community Development. The Planning Commission considered all oral and written public testimony and the written report of the Community Development Department, as well as the comments received by public agencies, utilities, organizations, special interest groups and persons who have reviewed the IS/MND and MMRP; and

WHEREAS, the Planning Commission exercised its independent judgment in evaluating the project applications and the Revised IS/MND in conjunction with comments received during the public review period and at the Planning Commission hearing; and

WHEREAS, the Planning Commission determined that: (1) there is no substantial evidence that the project will have a significant impact on the environment; and (2) revisions have been made to the project and have been included in the project as mitigation measures which reduce the potential impacts to a less-than-significant level; and

WHEREAS, the Planning Commission determined that project is in conformance with the provisions of the adopted General Plan and that the project is in compliance with the requirements of the City Zoning Code; and

WHEREAS, the Planning Commission determined that the findings required to approve the abovementioned applications can be made; and

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of San Rafael does hereby recommend that the City Council adopt the IS/MND for the project and approve Lot Line adjustment (LLA18-005), Environmental and Design Review Permits (ED18-066 and ED20-044), and Exception (EX19-010) based on the findings and subject to the MMRP and conditions of approval substantially in the form set forth in Attachments A and B, respectively.

The foregoing Resolution was adopted at the regular meeting of the City of San Rafael Planning Commission held on the 28th day of September 2021.

Moved by Commissioner _____ and seconded by Commissioner _____.

AYES: COMMISSIONERS

NOES: COMMISSIONERS

ABSENT: COMMISSIONERS

ABSTAIN: COMMISSIONERS

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Leslie Mendez, Secretary

BY: _____
Shingai Samudzi, Chair

Attachment A Mitigation Monitoring and Reporting Program
Attachment B Findings and Conditions of Approval

Attachment A

MITIGATION MONITORING AND REPORTING PROGRAM

Project Name: Fremont/Marquard Residential

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Timing	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
IV. BIOLOGIC RESOURCES					
<p>Mitigation Measure BIO -1: Protection of Northern Spotted Owl and Other Avian Specie Nesting. To avoid impacts to nesting birds, all tree removal within the Study Area shall be conducted outside of the nesting bird season, between September 1 and January 31, to the extent feasible. If tree removal occurs within the nesting season, between February 1 and August 31, a qualified biologist will conduct a nesting bird survey no sooner than 14 days prior to the start of work; and if no active nests are found, work may begin. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed. The buffer shall be clearly marked. The buffer shall be maintained until the young have fledged the nest or the nest becomes inactive (e.g., due to predation). If tree removal ceases for longer than 14 days, another nesting bird survey shall be conducted. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed.</p>	<p>Require as a condition of approval</p>	<p>Planning Division Planning Division</p>	<p>Incorporate as condition of project approval Planning Division to verify appropriate evaluate prior issuance of a grading permit</p>	<p>Deny project Deny issuance of building or grading permit</p>	

Attachment A

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Timing	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
V. CULTURAL RESOURCES					
<p>Mitigation Measure CUL-1: Protect Archaeological Resources Identified during Construction: The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).</p>	<p>Require as a condition of approval</p> <p>Project sponsor to designate qualified professional (pursuant to NAHC requirements and obtains approvals from appropriate agencies) prior to issuance of building permits</p>	<p>Planning Division</p> <p>Planning /Building Division</p>	<p>Incorporated as condition of project approval</p> <p>Planning / Building Divisions to verify appropriate professional prior issuance of building permit</p> <p>If Cultural Resources are identified the Project sponsor halts work immediately</p>	<p>Deny project</p> <p>Deny issuance of building or grading permit</p> <p>Stop Work Order or revocation of permit</p>	
<p>Mitigation Measure CUL-2: Protect Human Remains Identified During Construction: The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist. If the Coroner's determination that the human remains are probably Native American, the Native American Heritage Commission (NAHC) shall be notified in accordance with the requirements in PRC Section 5097.98. A qualified archaeologist, the Project proponent, a representative from the City of San Rafael, and the NAHC-designated Most Likely Descendent shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and</p>	<p>Require as a condition of approval</p> <p>Include this requirement in building and grading plan sets as a requirement for permit issuance</p>	<p>Planning Division</p> <p>Planning Division</p>	<p>Incorporated as condition of project approval</p> <p>Planning Division to verify that the requirement is included on plan set(s)</p> <p>Project sponsor to halt work immediately upon discovery of human remains</p>	<p>Deny project</p> <p>Deny issuance of building or grading permit</p> <p>Stop Work Order or revocation of permit</p>	

Attachment A

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Timing	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>associated or unassociated funerary objects. The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.</p>					
VII. GEOLOGY AND SOILS					
<p>Mitigation Measure GE0-1: Design Level Geotechnical Investigation. Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer based upon the approved project. The geotechnical investigation shall incorporate the recommendations and requirements identified in the Peer Review conducted by Miller Pacific Engineering Group dated January 21, 2021. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs..</p>	Require as a condition of approval	Planning Division	Incorporated as condition of project approval	Deny project	
	Project sponsors shall submit a design-level geotechnical investigation based upon the approved project that is prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer and Building Divisions	Public Works / Building Divisions	Public Works / Building Division verifies appropriate design-level report prior to issuance of building permit	Deny issuance of building or grading permit	
IX. HAZARDS					
<p>Mitigation Measure HAZ-1: Preparation of a Construction Management Plan. Prior to issuance of a grading or demolition permit the applicant shall submit a construction management plan which includes the name and contact information of the construction site project manager, construction and concrete delivery schedule, staging plan, and emergency access plan and construction schedule. All staging shall be kept onsite. Due to site conditions and roadway width, additional coordination and notification shall be required to maintain access to adjacent properties and emergency vehicle access.</p>	Require as a condition of approval	Planning Division	Incorporated as condition of project approval	Deny project	
	Project sponsor prepares a construction management plan and submit the report to the City Engineers	Public Works / Building Divisions	Public Works verifies appropriate design-level report prior to issuance of building permit	Deny issuance of building or grading permit	

Attachment B

FINDINGS AND CONDITIONS OF APPROVAL

LOT LINE ADJUSTMENT FINDINGS (LLA18-005)

A. That the lot line adjustment involves adjacent lots.

The proposed lot line adjustment is between two existing legally created lots that share a common lot line. After the lot lines are adjusted, the two lot will continue to share a common lot line.

B. That the lot line adjustment is consistent with the adopted general plan.

The intended use of the lots created by the lot line adjustment complies with the residential land use designations and the density criteria described in the General Plan (2 to 6.5 units per acre).

C. That the lot line adjustment is consistent with the Municipal Code.

The lots created by the lot line adjustment comply with the applicable zoning regulations, except the lot size requirement. However, the sizes of the proposed lots will be the same as the sizes of the existing subdivision lots. The proposed lot line adjustment also creates more development building sites by creating wider lots. The Municipal Code requirements for the R10-H Zoning District indicated that the minimum lot width of 75'. The average width of the existing lots are approximately 40' and 60 feet. The proposed lot line adjustment would create lots that exceed the minimum 75' lot width. Consequently, the lot line adjustment would create more developable building sites on each lot.

ENVIRONMENTAL AND DESIGN REVIEW PERMIT ED18-066 FINDINGS (Marquard Avenue Lot)

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter:

The project site is designated as Low Density Residential (LDR) on the General Plan 2020 Land Use Map and is within the Single Family Residential (R10) Zoning District with a Hillside Development Overlay. Single family residences are permitted by-right in the R10 Zoning District. The project is consistent with the following design-related General Plan polices:

Land Use Element Policy LU-1.2 (Development Timing) states that development should occur only when adequate infrastructure is available to support the new development. The new residence on Marquard Avenue is in a location that has the needed infrastructure.

Land Use Element Policy LU-3.2 (New Development in Residential Neighborhoods) calls for the enhancement and preservation of residential character in neighborhoods. The proposed residential use is consistent with this policy.

Housing Element Policy H-2 (Neighborhood Context) states that new housing on existing properties can add to the overall value of the neighborhood. As such, new residences and site improvements should be designed to fit in with the established character of the neighborhood. The project incorporates decks, varied rooflines, and building setbacks which break up the massing of the structure and blend in with the natural grade of the hillside. Existing residences in the area contain a variety of architectural styles and building setbacks. Proposed colors and materials are designed to blend with the sites natural wooded setting. The entry to the building is provided by well-defined stair access and features windows and decks that provide visibility to the street on all sides. The proposed building is consistent with hillside development standards and

guidelines and fits in with the established character of the neighborhood. As such, the project is consistent with this General Plan policy.

West End Neighborhood Policy NH-2.4 (Development on Remaining Vacant Residential Lots) states that adequate provisions for emergency vehicle access and water supply should be verified prior to constructing additional homes. The new Marquard Avenue structure had adequate emergency access and necessary infrastructure service. Project components associated with construction of the new residence include widening portions of Marquard Avenue in front of the new residence to improve access and the provision of the required four off-street vehicular parking spaces.

Neighborhoods Policy NH-2 (New Development in Residential Neighborhoods) seeks to preserve, enhance, and maintain the character of existing residential neighborhoods. Policy NH-2 further articulates that new development should enhance neighborhood image and quality of life by incorporating height and setback transitions that respect adjacent development, respect existing natural features, maintain or enhance infrastructure service needs, and provide adequate parking.

Community Design and Preservation Policy CDP-2.3 (Neighborhood Identity and Character) encourages the recognition, preservation and enhancement of the positive qualities that shapes neighborhood identity by maintaining the scale of new development and providing design flexibility. The proposed residential units are consistent in design and character with the surrounding area. The proposed project is consistent with this policy.

Community Design and Preservation Policy CDP-4.4 (Single Family Home Design) encourages the design of new home, additions, and alterations to integrate well into their surroundings. The design of the existing Fremont Road residence maintains its existing architectural character. The proposed Marquard Avenue residence includes mountain cabin architectural elements. The proposed project is consistent with this policy.

Community Design and Preservation Policy CDP-4.11 (Lighting) encourages lighting for safety and security while minimizing excessive offsite lighting and glare. The proposed exterior lighting is in conformance with this requirement. The proposed project is consistent with this policy.

Conservation and Climate Change Policies Policy C-1.15 (Landscaping with Appropriate Naturalized Plant Species) encourages the use of native and compatible species and removes several non-native trees. The project proposes native and appropriate under-story species on the site. The project complies with this policy.

Safety and Resilience Policy S-2.2 (Minimize Potential Effects of Landslides) are applicable to the development of this site. To implement these policies, the applicant has submitted a preliminary geotechnical assessment was prepared. The preliminary assessment indicated the presence of shallow soils and evidence of historic soil creep, a form of very slow-moving landslide. The project has been conditioned to provide a building permit process study based for the approved project to identify specific measures needed to comply with the requirements of the building code. The proposed project is consistent with this policy.

Safety and Resilience Policy S-2.5 (Erosion Control) require the implementation of appropriate control measures to reduce erosion. The project will be required to submit, and receive approval of, an erosion control plans. The proposed project is consistent with this policy.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located:

The Design Review Board (Board) evaluated the design of the project on December 8, 2018, as part of conceptual design review and on October 7, 2020 as part of a formal design review. The Design Review Board Subcommittee (Members Summers and Kent) unanimously found that the project was appropriate in

design (2-0) and recommended approval of the project design to the Planning Commission, subject to conditions of approval.

C. That the project design minimizes adverse environmental impacts:

The proposed design of project minimizes its adverse environmental impacts smaller than originally proposed and removes fewer significant trees. The project also provides both on-site and off-street parking. In addition, staff conducted a review of the project applications and prepared an Initial Study pursuant to the provisions of Section 15063 of the CEQA Guidelines. The Initial Study identified potentially significant impacts that can be mitigated to a less than significant level for Cultural Resources, Geology & Soils, and Construction Noise. The mitigation measures are included in the Mitigation Monitoring and Reporting Program.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

The project has been reviewed by the appropriate agencies and conditions of approval have been incorporated to ensure the project will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the project vicinity.

**ENVIRONMENTAL AND DESIGN REVIEW PERMIT ED20-044 FINDINGS
(54 Fremont Road Lot)**

A. That the project design is in accord with the general plan, the objectives of the zoning ordinance and the purposes of this chapter:

The project site is designated as Low Density Residential (LDR) on the General Plan 2020 Land Use Map and is within the Single Family Residential (R10) Zoning District with a Hillside Development Overlay. Single family residences and accessory dwelling units are permitted by-right in the R10 Zoning District. The project is consistent with the following design-related General Plan polices:

Land Use Element Policy LU-1.2 (Development Timing) states that development should occur only when adequate infrastructure is available to support the new development. The new residence on Marquard Avenue is in a location that has the needed infrastructure.

Land Use Element Policy LU-3.2 (New Development in Residential Neighborhoods) calls for the enhancement and preservation of residential character in neighborhoods. The proposed residential use is consistent with this policy.

Housing Element Policy H-2 (Neighborhood Context) states that new housing on existing properties can add to the overall value of the neighborhood. As such, new residences and site improvements should be designed to fit in with the established character of the neighborhood. The project incorporates decks, varied rooflines, and building setbacks which break up the massing of the structure and blend in with the natural grade of the hillside. Existing residences in the area contain a variety of architectural styles and building setbacks. Proposed colors and materials are designed to blend with the sites natural wooded setting. The entry to the building is provided by well-defined stair access and features windows and decks that provide visibility to the street on all sides. The proposed building is consistent with hillside development standards and guidelines and fits in with the established character of the neighborhood. As such, the project is consistent with this General Plan policy.

Housing Element Policy H-16 (Second Units) and Housing Program H-16a (New Second Units) encourage the construction of second (accessory dwelling) units. The proposed project includes the construction of a new second unit within the structure of the existing single-family residence. As such, the project is consistent with this General Plan policy.

West End Neighborhood Policy NH-2.4 (Development on Remaining Vacant Residential Lots) states that adequate provisions for emergency vehicle access and water supply should be verified prior to constructing additional homes. The new Marquard Avenue structure had adequate emergency access and necessary infrastructure service. Project components associated with construction of the new residence include widening portions of Marquard Avenue in front of the new residence to improve access and the provision of the required four off-street vehicular parking spaces.

Neighborhoods Policy NH-2 (New Development in Residential Neighborhoods) seeks to preserve, enhance, and maintain the character of existing residential neighborhoods. Policy NH-2 further articulates that new development should enhance neighborhood image and quality of life by incorporating height and setback transitions that respect adjacent development, respect existing natural features, maintain or enhance infrastructure service needs, and provide adequate parking.

Community Design and Preservation Policy CDP-2.3 (Neighborhood Identity and Character) encourages the recognition, preservation and enhancement of the positive qualities that shapes neighborhood identity by maintaining the scale of new development and providing design flexibility. The proposed residential units are consistent in design and character with the surrounding area. The proposed project is consistent with this policy.

Community Design and Preservation Policy CDP-4.4 (Single Family Home Design) encourages the design of new home, additions, and alterations to integrate well into their surroundings. The design of the existing Fremont Road residence maintains its existing architectural character. The proposed Marquard Avenue residence includes mountain cabin architectural elements. The proposed project is consistent with this policy.

Community Design and Preservation Policy CDP-4.11 (Lighting) encourages lighting for safety and security while minimizing excessive offsite lighting and glare. The proposed exterior lighting is in conformance with this requirement. The proposed project is consistent with this policy.

Conservation and Climate Change Policies Policy C-1.15 (Landscaping with Appropriate Naturalized Plant Species) encourages the use of native and compatible species and removes several non-native trees. The project proposes native and appropriate under-story species on the site. The project complies with this policy.

Safety and Resilience Policy S-2.2 (Minimize Potential Effects of Landslides) are applicable to the development of this site. To implement these policies, the applicant has submitted a preliminary geotechnical assessment was prepared. The preliminary assessment indicated the presence of shallow soils and evidence of historic soil creep, a form of very slow-moving landslide. The project has been conditioned to provide a building permit process study based for the approved project to identify specific measures needed to comply with the requirements of the building code. The proposed project is consistent with this policy.

Safety and Resilience Policy S-2.5 (Erosion Control) require the implementation of appropriate control measures to reduce erosion. The project will be required to submit, and receive approval of, an erosion control plans. The proposed project is consistent with this policy.

B. That the project design is consistent with all applicable site, architecture and landscaping design criteria and guidelines for the district in which the site is located:

The Design Review Board (Board) evaluated the design of the project on November 19, 2019, and on October 7, 2020, as part of a formal design review by the DRB subcommittee. The Design Review Board Subcommittee (Members Summers and Kent) unanimously found that the project was appropriate in design (2-0) and recommended approval of the project design to the Planning Commission, with the requirements that the added landscaping and any approved off-street parking along Fremont Road be reviewed by the Board following the approval of the project, subject to conditions of approval.

C. That the project design minimizes adverse environmental impacts:

The proposed design of project minimizes its adverse environmental impacts since the size of the existing building is not being increased and the location will not change. In addition, staff conducted a review of the project applications and prepared an Initial Study pursuant to the provisions of Section 15063 of the CEQA Guidelines. The Initial Study identified potentially significant impacts that can be mitigated to a less than significant level for Biologic Resources, Cultural Resources, Geology & Soils, Hazards, and Construction Noise. The mitigation measures are included in the Mitigation Monitoring and Reporting Program as well as being included in the conditions of approval.

D. That the project design will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity.

The project has been reviewed by the appropriate agencies and conditions of approval have been incorporated to ensure the project will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the project vicinity.

**EXCEPTION EX19-010 FINDINGS
(54 Fremont Road lot)**

A. That there are special circumstances applicable to the property or land use, including but not limited to the size, shape, topography, location or surroundings that warrant granting of a minor exception from the strict application of the standards in this title.

The unusual and special circumstance for the project related to existing site conditions. The project site consists of two subdivision lots from the early 1900's. Each lot is smaller than the current zoning district standards require. Both lots are long and narrow in their current configuration and are located on relatively steep slopes. The existing single-family residence occupies portions of both lots. The proposed change to the lot configuration would put the existing single-family residence and garage onto a single parcel. The proposed parcel configuration means that development on the lower lot will be able to comply with the provisions of the zoning code and would eliminate the need for any exceptions on the lower Marquard Avenue lot. The lot line adjustment would create more developable building sites on each lot.

Minimum Natural State

The special circumstances relate to the existing site conditions and the amount of existing development on what will be the reconfigured upper Fremont Road parcel including the size and location of the existing single-family residence and detached one-car garage. The small size of the lot combined with the existing slope conditions create a situation where the existing structure and site improvements reduce the potential natural state area below the minimum. The proposed project would remove portions of the existing structure and would result in an increase in the amount of natural state. The current natural state for the existing lot is 56.4%, the natural state for the proposed reconfigured lot is 57.07% requirement. The existing condition warrants the granting of the minor exception for minimum natural state from 65.69% to approximately 57.07%.

Setbacks/Required Yards

The special circumstances relate to the location of the existing residence. The exception for the front yard setback is from 20 feet to 11.1 feet and conforms to the current setback distance from Fremont Road for the existing residence. The exception for the side yard setback is from 10 feet to 5.7 feet. This setback exceeds the current setback by over 4 feet. The current setback is approximately 1 foot from the pedestrian path. This increase in the side yard setback is being achieved by eliminating part of the existing structure. The existing condition warrants the granting of a minor exception for building setbacks.

B. That granting the exception will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare.

The exceptions do not alter the existing conditions on the area of the proposed upper lot. The existing residence was constructed prior many of the other structures in the vicinity. In addition, the configuration of the narrow access road is not changing. As a result, the exception is not altering the existing conditions and is not detrimental or injurious to the public health, safety, or general welfare.

C. Exceptions to property development standards in hillside areas can be approved when the Applicant has demonstrated that the project design meets the stated objectives of the hillside design guidelines. These objectives include preserving the inherent characteristics of hillside sites, displaying sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, maintaining a strong relationship to the natural setting; and minimizing grading, retaining more of the project site in its natural state, minimizing visual impacts, protecting significant trees or protect natural resources result by demonstrating superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures.

The Project has evolved since it was first submitted to the City. The current project is more respectful of the hill side conditions through a reduction in the sites of the proposed structures. The project complies with the hillside exceptions findings as follows.

- Preserve the inherent characteristics of hillside sites. The location and design of the Fremont Road residence is not changing, The siting and scale of the proposed Marquard Avenue has been reduced to appropriate fit on the site. The project is also not altering the overall configuration of the current hillside.
- Display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods. The project is maintaining open space areas southeast of the existing Fremont Road residence and northwest of the proposed Marquard Avenue residence. The overall lot coverage is approximately 33% which is less than the maximum lot coverage requirement of 40%. Additional landscaping is proposed on both lots and includes a variety of native plant species common to northern California.
- Maintain a strong relationship to the natural setting; and minimizing grading, retaining more of the project site in its natural state, minimizing visual impacts, protecting significant trees or protect natural resources result by demonstrating superior project with greater sensitivity to the natural setting and compatibility with and sensitivity to nearby structures. The design of the two residences is consistent with other development in the surrounding area which includes a variety of one-, two- and three-story structures on relatively small lots. The design of the project avoids the unnecessary removal of significant trees and excess grading. Most of the grading on the upper Fremont Road lot will be to accommodate a new foundation. The grading on the lower Marquard Avenue lot is related to the basement parking for the proposed unit and to accommodate the two off-street parking areas. Tree removal is limited to those that are directly affected by construction and is not being cleared of all vegetation.

CONDITIONS OF APPROVAL

**LOT LINE ADJUSTMENT (LLA18-005)
CONDITIONS OF APPROVAL**

1. This approval is granted for a lot line adjustment between APNs 012-043-11 and 012-043-12. This approval shall be valid for a period of three years from the date of approval. Within this 3-year period, the applicant

shall record the Lot Line Adjustment with the County Recorder's office through the recordation of grant deeds. Failure to record the lot line adjustment within this time period shall make this approval null and void.

2. Prior to the recordation of the lot line adjustment with the County Recorder's Office, the owner shall submit to the Public Works Department for review and approval, three (3) copies of new grant deeds accompanied by a plat map with easements and legal descriptions, prepared, stamped, and signed by a licensed surveyor/engineer. This submittal shall be accompanied by a recent copy of a preliminary title report for the subject properties.
3. The new grant deeds shall include the following statement: "This Lot Line Adjustment is approved by the City of San Rafael, File Number LL18-005, on (approval date), pursuant to Government Code Section 66412(d)."
4. Following recordation of the approved grant deeds, the applicant shall submit two (2) copies of the recorded grant deeds to the Community Development Department. No final inspections on any resulting residences shall be allowed until this requirement is satisfied.

**MARQUARD AVENUE LOT (52 FREMONT ROAD)
ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED18-066)
CONDITIONS OF APPROVAL**

1. This Environmental and Design Review Permit approves a two-story approximately 2,492 square foot single family residence with below grade level garage/storage on a vacant lot located within the Single Family Residential (R10) Zoning District with a Hillside Development Overlay designation. Plans submitted for building permit shall be in substantial conformance to the plans approved at the Design Review Board Meeting on December 8, 2020 with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval (plans dated November 20, 2020).
2. This Environmental and Design Review Permit shall be valid for **two (2) years** from approval and shall be null and void if a building permit is not issued or a time extension granted prior to the expiration date.
3. Prior to issuance of a grading or building permit, the applicant shall submit an updated geotechnical investigation report that complies with the requirements of the City of San Rafael General Plan 2020 Appendix F. More specifically, to review the engineering aspects of the proposed site including size and type of structures and magnitude and extent of grading. The discussion shall address foundation types for proposed structures, retaining systems, grading considerations, stability of cut slopes and constructed embankments, settlement of the site and adjacent sites due to existing conditions, proposed construction, and proposed surface and subsurface drainage facilities. The geotechnical report shall be peer reviewed by a City retained Geotechnical consultant, at the owner's expense. (Mitigation Measure GEO-1)
4. Prior to issuance of a building permit for the Marquard Avenue property, the applicant shall submit for and receive a building permit for the rehabilitation work and receive a City inspection approving the newly constructed foundation for the residence located at 54 Fremont Road.
5. Prior to issuance of a grading or building permit for either the Marquard Avenue Lot (52 Fremont Road) or 54 Fremont Road, the applicant shall submit a grading and drainage plan for both lots to the DPW and obtain approval. The grading permit shall include Bioretention sizing calculations. The applicant shall create and provide the appropriate drainage easement(s) prior to occupancy of either project.
6. Prior to issuance of a grading or building permit for either the Marquard Avenue Lot (52 Fremont Road) or 54 Fremont Road, the applicant shall submit frontage improvement plans for both lots to the DPW and obtain approval. These frontage improvements will include repair and replacement of the stairs and drainage piping

on the 10' right of way north and adjacent to each project. The applicant shall complete these improvements prior to occupancy of either project.

7. Prior to issuance of building permit, the applicant shall pay the required sewer connection fees.
8. Prior to issuance of building permit, the applicant shall demonstrate compliance with requirements of the San Rafael Sanitation District. The following shall be required:
 - a. All sewer related work shall be performed in accordance with San Rafael Sanitation District Standards.
 - b. Plans shall demonstrate that no permanent structures will be constructed over the Sanitary Sewer Easement.
 - c. The applicant shall be responsible for relocating any existing sewer lines located on the property to the satisfaction of the San Rafael Sanitation District.
9. Prior to commencement of grading activities, notification shall be provided to property owners and occupants within 300 feet of the site.
10. The applicant shall be subject to a 90-day post construction lighting inspection.
11. Prior to issuance of a building permit, a construction management plan shall be submitted to the City of San Rafael for review and approval by the Planning Division and Department of Public Works. The construction management plan should, at a minimum, outline parking areas for tradesmen, location of temporary power poles, loading/unloading areas, site storage, dumpsters, and toilets during construction. Should there be any anticipated road closures the scope of work causing the closure should be identified. The construction management plan shall include a provision and schedule for notifying the neighbors in advance of project construction. A monthly update shall be provided to the adjacent neighbors within 300 feet and all properties past the site with access from Upper Fremont Dr (even if outside 300 feet), and the Neighborhood Association, once the building permit has been issued and the City of San Rafael Community Development Department and Public Works Department.
12. The requirements contained in the mitigation measures contained in the Mitigation Monitoring and Reporting Program shall be complied with.
13. If tree removal occurs within the nesting season, between February 1 and August 31, a qualified biologist will conduct a nesting bird survey no sooner than 14 days prior to the start of work; and if no active nests are found, work may begin. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed. The buffer shall be clearly marked. The buffer shall be maintained until the young have fledged the nest or the nest becomes inactive (e.g., due to predation). If tree removal ceases for longer than 14 days, another nesting bird survey shall be conducted. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed. (Mitigation Measure BIO-1)
14. In the event that any archaeological features, such as concentrations of artifacts or culturally modified soil deposits including trash pits older than fifty years of age, are discovered at any time during grading, scraping, or excavation within the property, all work shall be halted in the vicinity of the find, the Planning Division shall be notified, and a qualified archaeologist shall be contacted immediately to make an evaluation. If warranted by the concentration of artifacts or soils deposits, an archaeologist shall monitor further work in the discovery area. (Mitigation Measure CUL-1)
15. If human remains are encountered during grading and construction, all work shall stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist shall be notified immediately so that an evaluation can be performed. The Coroner shall contact the Native American Heritage Commission, if the remains are deemed to be Native American and prehistoric, so the "most likely descendant" can be designated. (Mitigation Measure CUL-2)

16. Prior to issuance of a building or grading permit, whichever occurs first, the applicant shall pay any outstanding planning application processing fees.
17. The applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities.
18. In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify the applicant of any such claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. In the event the applicant is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: (1) approve the counsel to so defend the City; (2) approve all significant decisions concerning the manner in which the defense is conducted; and (3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding, provided that if the City chooses to have counsel of its own to defend any claim, action or proceeding where applicant already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City.
19. As a condition of this application, applicant agrees to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City.

DEPARTMENT OF PUBLIC WORKS CONDITIONS

20. Prior to issuance of a building permit, the supplemental investigation and analysis recommended by the third-party geotechnical peer reviewer (Miller Pacific Engineering Group) should be performed, and the results incorporated into the final design documents. Miller Pacific's recommendations were provided in a letter dated 25 January 2021.
21. Upon submittal of a building permit, the applicant shall submit a lighting analysis for the property frontage to determine lighting deficiencies. Based on review of the lighting analysis, modified street lighting may be required along the property frontage.
22. New electrical service installed by the project shall be underground.
23. Prior to issuance of building permit, the applicant shall pay applicable traffic mitigation fees. Please note that fees will be assessed at the time of building permit issuance.
24. Prior to issuance of a building permit, the applicant shall pay the applicable construction vehicle impact fee, which is calculated at one percent of the project valuation, with the first \$10,000 of valuation exempt.
25. Prior to issuance of a building permit, the applicant shall demonstrate compliance with Marin Municipal Water District water conservation measures.

26. Prior to Issuance of Building Permit, the applicant shall submit the stormwater control plan, which includes a written document, in addition to the erosion control plan shown on the plan set. Details of the stormwater system including overflow dissipation shall be reviewed by the Department of Public Works with plans submitted for building/grading. More specific information is available from MCSTOPPP, hosted on the Marin County Website. See tools and guidance, and post construction requirements at the following address:
<http://www.marincounty.org/depts/pw/divisions/mcstoppp/development/new-and-redevelopment-projects>
27. Plans submitted for grading permit shall include cut and fill calculations for the project. A grading permit shall be required from the Department of Public Works, located at 111 Morphew St. for project proposing 50 cubic yards or more of earthwork.
28. Prior to issuance of a grading permit the applicant shall submit a construction management plan which includes the name and contact information of the construction site project manager, construction and concrete delivery schedule, staging plan, and emergency access plan and construction schedule. All staging shall be kept onsite. Due to site conditions and roadway width, additional coordination and notification shall be required to maintain access to adjacent properties and emergency vehicle access. (Mitigation Measure HAZ-1)
29. Prior to issuance of a building or grading permit, an erosion and sediment control plan shall be submitted to the City.
30. Prior to commencing work within the right-of-way, the applicant shall obtain an encroachment from the Department of Public Works located at 111 Morphew St.
31. Prior to issuance of building permits, the applicant shall submit Civil and Utility plans in accordance with the San Rafael Sanitation District Standards for review.

BUILDING DEPARTMENT CONDITIONS

32. The design and construction of all site alterations shall comply with the 2016 California Residential Code (CRC), 2016 California Building Code (CBC), 2016 California Plumbing Code (CPC), 2016 California Electrical Code (CEC), 2016 California Mechanical Code (CMC), 2016 California Fire Code (CFC), 2016 California Energy Code, 2016 California Green Building Standards Code and City of San Rafael Ordinances and Amendments.
33. A building permit is required for the proposed work. Applications for a building permit shall be accompanied by four (4) complete sets of construction drawings to include:
 - a. Architectural plans
 - b. Structural plans
 - c. Electrical plans
 - d. Plumbing plans
 - e. Mechanical plans
 - f. Site/civil plans (clearly identifying grade plane and height of the building)
 - g. Structural Calculations
 - h. Truss Calculations
 - i. Geotech/Soils reports
 - j. Green Building documentation
 - k. Title-24 energy documentation
34. School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit.

35. The applicant shall apply for a new address for this building from the Building Division.
36. Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20.
37. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted.
38. This project is subject to the City of San Rafael Green Building Ordinance. A sliding scale is applied based on the total square footage of new single family and duplex dwelling projects. New dwellings must comply with the “Green Building Rating System” by showing a minimum compliance threshold between 75 and 200 points. Additionally, the energy budget must also be below Title 24 Energy Efficiency Standards a minimum 15% up to net zero energy (sliding scale based on square footage).
39. All new construction, additions or remodels must comply with the Wood-Burning Appliance Ordinance. New wood burning fireplaces and non-EPA certified wood stoves are prohibited. Non-EPA Phase II-certified wood stoves must be removed in remodels and additions which: exceed 50% of the existing floor area and include the room the stove is located in.
40. This new building is in a Wildland-Urban Interface Area. The building materials, systems and/or assemblies used in the exterior design and construction must comply with CBC Chapter 7A. All under floor areas enclosed to the grade with exterior walls in accordance with CBC section 704A.3. The underside of cantilevered and overhanging appendages and floor projections shall maintain the ignition-resistant integrity of exterior walls (CBC 7A.3), or the projection shall be enclosed to the grade.

FIRE DEPARTMENT CONDITIONS

41. The design and construction of all site alterations shall comply with the 2016 California Fire Code (CFC) and City of San Rafael Ordinances and Amendments.
42. The design and construction of all site alterations shall comply with the 2019 California Fire Code, current NFPA Standards, and all applicable City of San Rafael Ordinances and Amendments.
43. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems.
44. Fire Sprinkler plans meeting NFPA 13D (Deferred Submittal to the Fire Prevention Bureau)
45. Provide address numbers plainly visible from the street or road fronting the property. Numbers painted on the curb do not qualify as meeting this requirement. Numbers shall contrast with the background and shall be Arabic numbers or letters. Numbers shall be internally or externally illuminated in all new construction or substantial remodels. Number sizes are as follows: For residential—4” tall with ½” stroke.
46. This property is in a Wildland-Urban Interface (WUI) area. Provide a written Vegetation Management Plan (VMP) submitted to the San Rafael Fire Department. This VMP must be completed and verified prior to final approval. Additionally, the approved VMP is to be incorporated into the final set of building plans. Refer to City of San Rafael Ordinance 1856 that may be viewed at <https://www.cityofsanrafael.org/vmp-san-rafael-fd/> or you may contact the Fire Department at (415) 485-3304 to schedule a time to meet with a vegetation management inspector. Continued compliance with the VMP shall be recorded in the Deed and Title document for the property.

MARIN MUNICIPAL WATER DISTRICT CONDITIONS

47. Complete a High Pressure Water Service Application.
 - a. Submit a copy of the building permit.
 - b. Pay appropriate fees and charges.
 - c. Complete the structure's foundation within 120 days of the date of application.
 - d. Comply with the District's rules and regulations in effect at the time service is requested.
48. Comply with all indoor and outdoor requirements of District Code Title 13 - Water Conservation. This may include verification of specific indoor fixture efficiency compliance.
49. If the applicant is pursuing a landscaping project subject to review by the local planning department and /or subject to a city permit, please contact the district water conservation department at 415-945-1497 or email to plancheck@marinwater.org. More information about district water conservation requirements can be found on line at www.marinwater.org
50. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1558.
51. Comply with Ordinance No. 429 requiring the installation of a gray water recycling system when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.

**54 FREMONT ROAD
ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED20-044)
AND EXCEPTION (EX19-10)
CONDITIONS OF APPROVAL**

1. This Environmental and Design Review Permit approves the modification to an existing two-story single family residence into an approximately 1,554 square foot single family residence and a 1,104 square foot accessory dwelling units within the Single Family Residential (R10) Zoning District with a Hillside Development Overlay designation. The scope requires site improvements including grading, drainage, decking, stairs and replacement of several site walls. Plans submitted for building permit shall be in substantial conformance to the plans approved at the Design Review Board Meeting on December 8, 2020 with regard to building techniques, materials, elevations, and overall project appearance except as modified by these conditions of approval (plans dated November 20, 2020).
2. This Environmental and Design Review Permit shall be valid for **two (2) years** from approval and shall be null and void if a building permit is not issued or a time extension granted prior to the expiration date.
3. Prior to issuance of a grading or building permit, the applicant shall submit an updated geotechnical investigation report that complies with the requirements of the City of San Rafael General Plan 2020 Appendix F. More specifically, to review the engineering aspects of the proposed site including size and type of structures and magnitude and extent of grading. The discussion shall address foundation types for proposed structures, retaining systems, grading considerations, stability of cut slopes and constructed embankments, settlement of the site and adjacent sites due to existing conditions, proposed construction, and proposed surface and subsurface drainage facilities. The geotechnical report shall be peer reviewed by a City retained Geotechnical consultant, at the owner's expense. (Mitigation Measure GEO-1)
4. Prior to issuance of building permit, the applicant shall file for and receive approval for and record the lot line adjustment for the two lots associated with this project.

5. Prior to issuance of a grading or building permit for either the Marquard Avenue Lot (52 Fremont Road) or 54 Fremont Road, the applicant shall submit a grading and drainage plan for both lots to the DPW and obtain approval. The grading permit shall include Bioretention sizing calculations. The applicant shall create and provide the appropriate drainage easement(s) prior to occupancy of either project.
6. Prior to issuance of a grading or building permit for either the Marquard Avenue Lot (52 Fremont Road) or 54 Fremont Road, the applicant shall submit frontage improvement plans for both lots to the DPW and obtain approval. These frontage improvements will include repair and replacement of the stairs and drainage piping on the 10' right of way north and adjacent to each project. The applicant shall complete these improvements prior to occupancy of either project.
7. Prior to issuance of building permit, the applicant shall pay the required sewer connection fees.
8. Prior to issuance of building permit, the applicant shall demonstrate compliance with requirements of the San Rafael Sanitation District. The following shall be required:
 - a. All sewer related work shall be performed in accordance with San Rafael Sanitation District Standards.
 - b. Plans shall demonstrate that no permanent structures will be constructed over the Sanitary Sewer Easement.
 - c. The applicant shall be responsible for relocating any existing sewer lines located on the property to the satisfaction of the San Rafael Sanitation District.
9. Prior to commencement of grading activities, notification shall be provided to property owners and occupants within 300 feet of the site.
10. The applicant shall be subject to a 90-day post construction lighting inspection.
11. Prior to issuance of a building permit, a construction management plan shall be submitted to the City of San Rafael for review and approval by the Planning Division and Department of Public Works. The construction management plan should, at a minimum, outline parking areas for tradesmen, location of temporary power poles, loading/unloading areas, site storage, dumpsters, and toilets during construction. Should there be any anticipated road closures the scope of work causing the closure needs to be identified. The construction management plan shall include a provision and schedule for notifying the neighbors in advance of project construction. A monthly update shall be provided to the adjacent neighbors within 300 feet of the site and the Neighborhood Association, once the building permits have been issued, and the City of San Rafael Community Development Department and Public Works Department.
12. The requirements contained in the mitigation measures contained in the Mitigation Monitoring and Reporting Program shall be complied with.
13. If tree removal occurs within the nesting season, between February 1 and August 31, a qualified biologist will conduct a nesting bird survey no sooner than 14 days prior to the start of work; and if no active nests are found, work may begin. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed. The buffer shall be clearly marked. The buffer shall be maintained until the young have fledged the nest or the nest becomes inactive (e.g., due to predation). If tree removal ceases for longer than 14 days, another nesting bird survey shall be conducted. If active nests are found during the survey, the qualified biologist shall establish a protective buffer zone around the nest within which no work will be allowed. (Mitigation Measure BIO-1)
14. In the event that any archaeological features, such as concentrations of artifacts or culturally modified soil deposits including trash pits older than fifty years of age, are discovered at any time during grading, scraping, or excavation within the property, all work shall be halted in the vicinity of the find, the Planning Division

shall be notified, and a qualified archaeologist shall be contacted immediately to make an evaluation. If warranted by the concentration of artifacts or soils deposits, an archaeologist shall monitor further work in the discovery area. (Mitigation Measure CUL-1)

15. If human remains are encountered during grading and construction, all work shall stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist shall be notified immediately so that an evaluation can be performed. The Coroner shall contact the Native American Heritage Commission, if the remains are deemed to be Native American and prehistoric, so the “most likely descendant” can be designated. (Mitigation Measure CUL-2)
16. Prior to issuance of a building or grading permit, whichever occurs first, the applicant shall pay any outstanding planning application processing fees.
17. The applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities.
18. In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify the applicant of any such claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. In the event the applicant is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to: (1) approve the counsel to so defend the City; (2) approve all significant decisions concerning the manner in which the defense is conducted; and (3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding, provided that if the City chooses to have counsel of its own to defend any claim, action or proceeding where applicant already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City.
19. As a condition of this application, applicant agrees to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City.

DEPARTMENT OF PUBLIC WORKS CONDITIONS

20. Prior to issuance of a building permit, a design-level geotechnical investigation report that addresses the proposed improvements at the 54 Fremont Road property should be submitted to the DPW for review. The report may be subject to a third-party geotechnical peer review.
21. Upon submittal of a building permit, the applicant shall submit a lighting analysis for the property frontage to determine lighting deficiencies. Based on review of the lighting analysis, modified street lighting may be required along the property frontage.
22. Prior to issuance of building permit, the applicant shall pay applicable traffic mitigation fees. Please note that fees will be assessed at the time of building permit issuance.

23. Prior to issuance of a building permit, the applicant shall pay the applicable construction vehicle impact fee, which is calculated at one percent of the project valuation, with the first \$10,000 of valuation exempt.
24. Prior to issuance of a building permit, the applicant shall demonstrate compliance with Marin Municipal Water District water conservation measures.
25. Prior to Issuance of Building Permit, the applicant shall submit the stormwater control plan, which includes a written document, in addition to the erosion control plan shown on the plan set. Details of the stormwater system including overflow dissipation shall be reviewed by the Department of Public Works with plans submitted for building/grading. More specific information is available from MCSTOPPP, hosted on the Marin County Website. See tools and guidance, and post construction requirements at the following address:
<http://www.marincounty.org/depts/pw/divisions/mcstoppp/development/new-and-redevelopment-projects>
26. Plans submitted for grading permit shall include cut and fill calculations for the project. A grading permit shall be required from the Department of Public Works, located at 111 Morphew St. for project proposing 50 cubic yards or more of earthwork.
27. Prior to issuance of a grading permit the applicant shall submit a construction management plan which includes the name and contact information of the construction site project manager, construction and concrete delivery schedule, staging plan, and emergency access plan and construction schedule. All staging shall be kept onsite. Due to site conditions and roadway width, additional coordination and notification shall be required to maintain access to adjacent properties and emergency vehicle access. (Mitigation Measure HAZ-1)
28. Prior to issuance of a building or grading permit, an erosion and sediment control plan shall be submitted to the City.
29. Prior to commencing work within the right-of-way, the applicant shall obtain an encroachment from the Department of Public Works located at 111 Morphew St.
30. Prior to issuance of building permits, the applicant shall submit Civil and Utility plans in accordance with the San Rafael Sanitation District Standards for review.

BUILDING DEPARTMENT CONDITIONS

31. The design and construction of all site alterations shall comply with the 2016 California Residential Code (CRC), 2016 California Building Code (CBC), 2016 California Plumbing Code (CPC), 2016 California Electrical Code (CEC), 2016 California Mechanical Code (CMC), 2016 California Fire Code (CFC), 2016 California Energy Code, 2016 California Green Building Standards Code and City of San Rafael Ordinances and Amendments.
32. A building permit is required for the proposed work. Applications for a building permit shall be accompanied by four (4) complete sets of construction drawings to include:
 - a. Architectural plans
 - b. Structural plans
 - c. Electrical plans
 - d. Plumbing plans
 - e. Mechanical plans
 - f. Site/civil plans (clearly identifying grade plane and height of the building)
 - g. Structural Calculations
 - h. Truss Calculations
 - i. Geotech/Soils reports
 - j. Green Building documentation

k. Title-24 energy documentation

33. School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit.
34. The applicant shall apply for a new address for this building from the Building Division.
35. Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20.
36. Regarding any grading or site remediation, soils export, import and placement; provide a detailed soils report prepared by a qualified engineer to address these procedures. The report should address the import and placement and compaction of soils at future building pad locations and should be based on an assumed foundation design. This information should be provided to Building Division and Department of Public Works for review and comments prior to any such activities taking place.
37. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted.
38. This project is subject to the City of San Rafael Green Building Ordinance. A sliding scale is applied based on the total square footage of new single family and duplex dwelling projects. New dwellings must comply with the “Green Building Rating System” by showing a minimum compliance threshold between 75 and 200 points. Additionally, the energy budget must also be below Title 24 Energy Efficiency Standards a minimum 15% up to net zero energy (sliding scale based on square footage).
39. All new construction, additions or remodels must comply with the Wood-Burning Appliance Ordinance. New wood burning fireplaces and non-EPA certified wood stoves are prohibited. Non-EPA Phase II-certified wood stoves must be removed in remodels and additions which: exceed 50% of the existing floor area and include the room the stove is located in.
40. This new building is in a Wildland-Urban Interface Area. The building materials, systems and/or assemblies used in the exterior design and construction must comply with CBC Chapter 7A. All under floor areas enclosed to the grade with exterior walls in accordance with CBC section 704A.3. The underside of cantilevered and overhanging appendages and floor projections shall maintain the ignition-resistant integrity of exterior walls (CBC 7A.3), or the projection shall be enclosed to the grade.
41. The design and construction of all site alterations shall comply with the 2016 California Fire Code (CFC) and City of San Rafael Ordinances and Amendments.

FIRE DEPARTMENT CONDITIONS

42. The design and construction of all site alterations shall comply with the 2019 California Fire Code, current NFPA Standards, and all applicable City of San Rafael Ordinances and Amendments.
43. The project location is located on a roadway that does not conform to California Fire Code provisions for emergency vehicle access and turnaround. (Reference: CA Fire Code section 503 and Appendix D). This could result in emergency response delays. Alternate Materials and Methods (CFC section 109) can be considered. An NFPA 13R fire sprinkler system will be considered under Alternate Materials and Methods.

44. During review of the building permit, deferred submittal for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the system:
 - a. Fire Sprinkler plans conforming to NFPA 13R for home and ADU (Deferred Submittal to the Fire Prevention Bureau).
45. Provide address numbers plainly visible from the street or road fronting the property. Numbers painted on the curb do not qualify as meeting this requirement. Numbers shall contrast with the background and shall be Arabic numbers or letters. Numbers shall be internally or externally illuminated in all new construction or substantial remodels. Number sizes are as follows: For residential—4” tall with ½” stroke.
46. Note: Based on substandard roadway design, there is no on-street parking available at this location.
47. This property is in a Wildland-Urban Interface (WUI) area. Provide a written Vegetation Management Plan (VMP) submitted to the San Rafael Fire Department. This VMP must be completed and verified prior to issuance of building permits. The VMP Refer to City of San Rafael Ordinance 1856 that may be viewed at <https://www.cityofsanrafael.org/vmp-san-rafael-fd/> or you may contact the Fire Department at (415) 485-3304 to schedule a time to meet with a vegetation management inspector. Continued compliance with the VMP shall be recorded in the Deed and Title document for the property.

MARIN MUNICIPAL WATER DISTRICT CONDITIONS

48. Complete a High Pressure Water Service Application.
 - a. Submit a copy of the building permit.
 - b. Pay appropriate fees and charges.
 - c. Complete the structure's foundation within 120 days of the date of application.
 - d. Comply with the District's rules and regulations in effect at the time service is requested.
49. Comply with all indoor and outdoor requirements of District Code Title 13 - Water Conservation. This may include verification of specific indoor fixture efficiency compliance.
50. If the applicant is pursuing a landscaping project subject to review by the local planning department and /or subject to a city permit, please contact the district water conservation department at 415-945-1497 or email to plancheck@marinwater.org. More information about district water conservation requirements can be found on line at www.marinwater.org
51. Comply with the backflow prevention requirements, if upon the District's review backflow protection is warranted, including installation, testing and maintenance. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1558.
52. Comply with Ordinance No. 429 requiring the installation of a gray water recycling system when practicable for all projects required to install new water service and existing structures undergoing "substantial remodel" that necessitates an enlarged water service.