



**Planning Commission
Regular Meeting**

**Tuesday, January 25, 2022, 7:00 P.M.
AGENDA**

Virtual Meeting

**Watch on Webinar: <https://tinyurl.com/pc-2022-01-25>
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>
Telephone: (669) 900-9128
Meeting ID: 858-4988-7189#
One Tap Mobile: US: +16699009128,,85849887189#**

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held virtually using Zoom.

How to participate in the meeting:

- Submit public comments in writing. Correspondence received by 5:00 p.m. the Wednesday before this public hearing will be provided with the agenda materials provided to the Commission. Correspondence received after this deadline but by 5:00 p.m. the day of the hearing will be conveyed to the Commission as a supplement. Send correspondence to the project planner and to planningpubliccomment@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.

Members of the public may speak on Agenda items.

CALL TO ORDER

RECORDING OF MEMBERS PRESENT AND ABSENT

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

PUBLIC NOTIFICATION OF MEETING PROCEDURES

ORAL COMMUNICATIONS FROM THE PUBLIC

Remarks are limited to three minutes per person and may be on anything within the subject matter jurisdiction of the body. Remarks on non-agenda items will be heard first, remarks on agenda items will be heard at the time the item is discussed.

CONSENT CALENDAR

The Consent Calendar allows the Commission to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no Commission members who wish to discuss.

1. Approval of the Planning Commission Meeting Minutes of January 11, 2022

Recommended Action – Approve minutes as submitted

ACTION ITEMS

2. 1007, 1020, & 1030 Northgate Drive (“Northgate Walk”)

To modify Environmental and Design Review Permit (ED16-038), Use Permit (UP16-018), and Vesting Tentative Map (S16-001) to reduce the number of required affordable housing units from 28 to 14 in a 136-unit residential development pursuant to SRMC Section 14.16.030

Project Planner: Jeff Ballantine jeff.ballantine@cityofsanrafael.org

Recommended Action – Adopt the resolution

3. Design Review Advisory Committee (DRAC) 1-Year Pilot Program

Resolution Recommending to the City Council Adoption of an Ordinance Amending the Zoning Code to Establish the Design Review Advisory Committee (DRAC); and Adoption of a Resolution to Establish a 1-year DRAC Pilot Program

Project Planner: Jacob Noonan jacob.noonan@cityofsanrafael.org

Project Planner: Alicia Giudice alicia.giudice@cityofsanrafael.org

Recommended Action – Adopt the resolution

DIRECTOR’S REPORT

COMMISSION COMMUNICATION

ADJOURNMENT

Any records relating to an agenda item, received by a majority or more of the Commission 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 city.clerk@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.

The Planning Commission will take up no new business after 11:00 p.m. at regularly scheduled meetings. This shall be interpreted to mean that no agenda item or other business will be discussed or acted upon after the agenda item under consideration at 11:00 p.m. The Commission may suspend this rule to discuss and/or act upon any additional agenda item(s) deemed appropriate by a unanimous vote of the members present. Appeal rights: any person

may file an appeal of the Planning Commission's action on agenda items within five business days (normally 5:00 p.m. on the following Tuesday) and within 10 calendar days of an action on a subdivision. An appeal letter shall be filed with the City Clerk, along with an appeal fee of \$350 (for non-applicants) or a \$4,476 deposit (for applicants) made payable to the City of San Rafael, and shall set forth the basis for appeal. There is a \$50.00 additional charge for request for continuation of an appeal by appellant.



**Planning Commission
Regular Meeting**

**Tuesday, January 11, 2022, 7:00 P.M.
MINUTES**

Virtual Meeting

**Watch on Webinar: <https://tinyurl.com/pc-2022-01-11>
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>
Telephone: (669) 900-9128
Meeting ID: 872-0645-4435#
One Tap Mobile: US: +16699009128,,87206454435#**

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held virtually using Zoom.

How to participate in the meeting:

- Submit public comments in writing. Correspondence received by 5:00 p.m. the Wednesday before this public hearing will be provided with the agenda materials provided to the Commission. Correspondence received after this deadline but by 5:00 p.m. the day of the hearing will be conveyed to the Commission as a supplement. Send correspondence to the project planner and to planningpubliccomment@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.

Present: Chair Samudzi
Commissioner Harris
Commissioner Haveman
Commissioner Mercado
Vice Chair Previtali
Commissioner Saude

Absent: None

Also Present: Leslie Mendez, Planning Manager
Tricia Stevens, Contract Planner

CALL TO ORDER

Chair Samudzi called the meeting to order at 7:02 p.m. He then invited Planning Manager Leslie Mendez to call the roll. All commissioners were present.

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

Chair Samudzi suggested moving Agenda Item 3 (Northgate Mall Redevelopment Project) to be heard last tonight, as Commissioner Saude would be recusing herself from that item. Then, Chair Samudzi clarified that the term of the new Chair elected in Agenda Item 4 would take effect at the next meeting.

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Samudzi invited Planning Manager Leslie Mendez who informed the community the meeting would be streamed live to YouTube 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 and Zoom.

Chair Samudzi reviewed the procedures for the meeting.

ORAL COMMUNICATIONS FROM THE PUBLIC

None

CONSENT CALENDAR

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

Commissioner Saude moved and Commissioner Haveman seconded to approve the Consent Calendar.

1. Approval of the Planning Commission Meeting Minutes of December 14, 2021 *Approved minutes as submitted*

AYES: Commissioners: Harris, Haveman, Saude & Chair Samudzi
NOES: Commissioners: None
ABSENT: Commissioners: None
ABSTAIN: Commissioners: Mercado & Previtali

Motion carried 4-0-2

2. Tiscornia Marsh Restoration Project, North of Canal Street

Request for a Use Permit and Environmental and Design Review Permit to approve the Tiscornia Marsh Restoration Project. The Tiscornia Marsh Restoration Project proposes to restore the 23-acre tidal marsh/mudflats and shoreline levee located north and outboard of Canal Street, as well as the five-acre, City-owned diked marsh located north of the Albert J. Boro Center/Pickleweed Park Playfields. APNs: 009-142-01, 009-032-08 and -09; Planned Development- Wetland Overlay (PD-WO) and Parks/Open Space-Wetland and Canalfront Review Overlay (P/OS-WO-C) Districts. Applicant: Marin Audubon Society; Property Owners: Marin Audubon Society and City of San Rafael.

Project Planner: Leslie Mendez Leslie.mendez@cityofsanrafael.org

RESOLUTION NO. 22-01 - RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) (SCH #2021020362) PREPARED FOR THE TISCORNIA MARSH RESTORATION PROJECT, EAST CANAL STREET (CASE NOS. UP21-001, ED21-002, IS21-001)

RESOLUTION NO. 22-02 - RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION ADOPTING CEQA FINDINGS OF FACT AND APPROVING A MITIGATION MONITORING & REPORTING PROGRAM TO SUPPORT CONDITIONAL APPROVAL OF USE PERMIT (UP21-001) AND AN ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED21-002) FOR THE DEVELOPMENT OF THE TISCORNIA MARSH RESTORATION PROJECT, EAST CANAL STREET (CASE NOS. UP21-001, ED21-002)

RESOLUTION NO. 22-03 - RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION CONDITIONALLY APPROVING A USE PERMIT (UP21-001) AND AN ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED21-002) FOR THE DEVELOPMENT OF THE TISCORNIA MARSH RESTORATION PROJECT, EAST CANAL STREET (CASE NOS. UP21-001, ED21-002)

AYES: Commissioners: Harris, Haveman, Mercado, Previtali, Saude & Chair Samudzi
NOES: Commissioners: None
ABSENT: Commissioners: None
ABSTAIN: Commissioners: None

Motion carried 6-0

ACTION ITEMS

3. Northgate Mall Redevelopment Project (5800 Northgate Drive)

Scoping meeting for the Notice of Preparation of an Environmental Impact Report (EIR) for a Rezone to the Planned Development (PD) zone, a Use Permit, an Environmental and Design Review Permit, and a Tentative Map to allow the comprehensive redevelopment of the existing Mall into a new, phased mixed-use development with retail and approximately 1,443 residences on a 44.76-acre site. APNs: 175-060-12, -40, -59, -61, -66 & -67; General Commercial (GC) District; MeloneGeier Partners, owner/applicant; File Nos: ZC21-001, UP21-007, ED21-024, TS21-002, IS21-002 & DA21-001

Project Planner: Tricia Stevens Tricia.Stevens@cityofsanrafael.org

Recommended Action - Accept public comment and direct staff to prepare a Draft Environmental Impact Report (DEIR)

Commissioner Saude recused herself from this item (due to a potential conflict with her employer) and left the meeting at 7:29 p.m.

Leslie Mendez, Planning Manager introduced Tricia Stevens, Contract Planner who presented the Staff Report.

Theresa Wallace, CEQA Consultant gave a presentation.

Staff and Applicant responded to questions from the Commissioners.

Chair Samudzi invited public comment.

Speakers: Tyler Nielsen, Matthew Hartzell, WTB-TAM (Transportation Alternatives for Marin), Claire Halenbeck, Shirley Fischer, Bill Carney, Sustainable San Rafael, Adolfo, Scott Frerich, Brian, Mark Schott, Kate Powers, Judy Schriebman, Gallinas Watershed Council, Fred Penczak, Cecil Nielson, Kim Keith-Brown, Terra Linda Homeowners' Association, Raoul

Staff responded to further questions from the Commissioners.

Commissioners provided comments.

Staff provided comments.

Staff responded to further questions from the Commissioners.

Commissioners provided further comments.

4. Annual Meeting 2022

Annual Meeting of Planning Commission for 2022 to include: a) election of officers; and b) review of Planning Commission "Rules and Procedures"; and c) selection of liaisons to DRB meetings

Project Planner: Leslie Mendez Leslie.mendez@cityofsanrafael.org

This item was advanced and heard after the Consent Calendar.

Leslie Mendez, Planning Manager presented the Staff Report.

Leslie Mendez, Planning Manager presented 4.a Election of Officers.

Discussion amongst the Commission regarding Chair and Vice Chair Position.

Commissioner Mercado moved and Commissioner Haveman seconded to elect Vice Chair Previtali as Chair and to elect Commissioner Saude as Vice Chair for 2022, and that rotation continues based on the same tenure.

AYES: Commissioners: Harris, Haveman, Mercado, Previtali, Saude & Chair Samudzi

NOES: Commissioners: None

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

Motion carried 6-0

Leslie Mendez, Planning Manager presented 4.b Review of Planning Commission "Rules and Procedures".

Staff responded to questions from the Commissioners.

Commissioner Haveman moved and Commissioner Saude seconded to accept the suggested change granting the Chair's ability to limit the time of public comment on an item.

AYES: Commissioners: Harris, Haveman, Mercado, Previtali, Saude & Chair Samudzi

NOES: Commissioners: None

ABSENT: Commissioners: None

ABSTAIN: Commissioners: None

Motion carried 6-0

Leslie Mendez, Planning Manager presented 4.c Selection of liaisons to Design Review Board meetings for the first half of the year as there is currently a vacancy in the Planning Commission.

Staff responded to questions from the Commissioners.

Commissioner Haveman signed up for March. Commissioner Saude signed up for June. Commissioner Mercado signed up for January and April. Commissioner Harris signed up for May. Chair Samudzi signed up for February.

DIRECTOR'S REPORT

Planning Manager reported on the following items:

- Senate Bill 9 (SB 9) Update
- Gratitude for Chair Samudzi's service as Chair for the year

COMMISSION COMMUNICATION

- Vice Chair Previtali gave an update on the Housing Element Subcommittee.

ADJOURNMENT

Chair Samudzi adjourned the meeting at 9:15 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

SHINGAI SAMUDZI, Chair



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

| | |
|-------------------------|---|
| Meeting Date: | January 25, 2022 |
| Agenda Item: | 2 |
| Case Numbers: | PLAN21-035 (Amendment to ED16-038, UP16-018, S16-001) |
| Project Planner: | Jeff Ballantine jeff.ballantine@cityofsanrafael.org |

REPORT TO PLANNING COMMISSION

SUBJECT: 1007, 1020, & 1030 Northgate Drive (“Northgate Walk”) – To modify Environmental and Design Review Permit (ED16-038), Use Permit (UP16-018), and Vesting Tentative Map (S16-001) to reduce the number of required affordable housing units from 28 to 14 in a 136-unit residential development pursuant to SRMC Section 14.16.030

EXECUTIVE SUMMARY

A proposal to modify Environmental and Design Review Permit (ED16-038), Use Permit (UP16-018), and Vesting Tentative Map (S16-001) to reduce the number of required affordable housing units from 28 to 14 in a 136-unit residential development. The proposed modification is compliant with the City’s Affordable Housing Requirements in providing both the primary and secondary requirements for affordable housing, pursuant to SRMC 14.16.030 and [Ordinance 1990](#).

RECOMMENDATION

It is recommended that the Planning Commission adopt the attached Resolution (Exhibit 1) approving the request for modification to ED16-038, UP16-018, S16-001, to reduce the affordable housing requirements for Northgate Walk (1007, 1020, and 1030 Northgate Drive).

BACKGROUND

On July 23, 2019, the Planning Commission approved an Environmental and Design Review Permit (ED16-038), a Use Permit (UP16-018), and a Vesting Tentative Map (S16-001) for the Northgate Walk project with the adoption of Resolution 19-07. The Northgate Walk project includes 136 condominium (“for-sale”) units within three new buildings on three parcels. Consistent with the affordable housing requirements when the project was approved, it included 20% of the units designated as below-market rate (BMR) for a total of 28 units. Half of these were designated for low-income households and the other half designated for moderate-income level households.¹

On March 1, 2021, the City Council enacted [Ordinance 1990](#) which amended SRMC Section 14.16.030 lowering the City’s affordable housing requirements outlined in [Resolution 14890](#). As part of these amendments, the City Council allowed projects having already received City approval, but not yet started construction, the ability to apply for modification of their approval to be consistent with the new lowered affordable housing requirements.

As outlined in Ordinance 1990, the purpose of these changes to the affordable housing requirement is to incentivize the construction—not just approval—of housing units. These changes are projected to create

¹ The entitlements approved in Planning Commission Resolution 19-07 were set to expire on July 23, 2021. However, Assembly Bill (AB) 1561 extended this approval by 18 months, such that the approval now expires on January 23, 2023)

more net new units overall by incentivizing developers to begin construction on projects quickly while also expanding the most effective funding stream for the City to create permanently affordable housing.

As described in this [February 16, 2021 Staff Report](#) to City Council, these changes also provide a lever for the City to offset the economic effects of the COVID-19, which significantly increased the costs of construction. These cost increases have increased the risk in development and made projects that were feasible when first approved, now infeasible and unlikely to be built.

PROJECT DESCRIPTION

On September 27, 2021, San Rafael Hillcrest, LLC and San Rafael Commercial, LLC submitted a request for modification of the affordable housing requirement for the Northgate Walk (1007, 1020, and 1030 Northgate Drive). The applicant requested that the project's affordable housing requirement be modified as follows:

- Current Affordable Housing Requirement: Twenty-eight (28) Below Market Rate units.
- Requested Modification:
 - **Primary Requirement.** SRMC 14.16.030 and City Council Resolution 14890 requires that five percent (5%) of the base units must be maintained affordable for low-income households. Northgate Walk has 138 units, creating a Primary Requirement of 6.9 units. The applicant proposes 7 units to be maintained as BMR affordable to a low-income household.
 - **Secondary Requirement.** The applicant has elected to meet their secondary requirement by providing an additional five percent (5%) of the base units to be maintained affordable to a low-income household (7 units).

If approved, the requested modification would result in a total affordable housing requirement of 14 units to be maintained as BMR affordable to low-income households at 65% of the Area Median Income (AMI).

The applicant cites the following as reasons for the requested modification (see Exhibit 2 for further detail):

1. The costs of labor and materials have increased significantly. For instance, a shortage in lumber has resulted in roughly a 360% increase in the cost of lumber. Costs have increased for other building materials (e.g. foundation, trusses, pipes, wires, and appliances) between 50% and 150%.²
2. The project went through a multi-year entitlement approval process which entailed numerous project revisions that impacted project design and density which resulted in the loss of expected revenues.
3. Producing below market rate units is a significant cost and reducing the number of affordable units from 28 units to 14 units could be a decisive factor to facilitate the actual construction of this project.

ANALYSIS

The proposed modification is compliant with the City's Affordable Housing Requirements in providing both the primary and secondary requirements for affordable housing, pursuant to SRMC 14.16.030. Staff, therefore, recommends approval of the draft Resolution (Exhibit 1). The draft Resolution includes revisions to Condition of Approval No. 38 for the Environmental and Design Review Permit (ED16-038) and to Condition of Approval No. 2 for the Vesting Tentative Map (S16-001). These revisions utilize ~~strike through~~

² Nicholson, M.; Merrill, D.; and Sam, C. (2021, June 3). Building a Home in the U.S. Has Never Been More Expensive. *Bloomberg*. <https://www.bloomberg.com/graphics/2021-us-housing-construction-costs/>

text to signify deleted text and double underlined text to signify added text. In addition, some minor cleanup revisions to other conditions of approval are included, consistent with current Planning Division practices.

ENVIRONMENTAL DETERMINATION

This project qualifies for exemption from the provisions of the California Environmental Quality Act Guidelines pursuant to CEQA Guidelines Section 15183(a) because it entails a project that can be found consistent with the General Plan policies and pursuant to CEQA Guidelines Section 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.

NEIGHBORHOOD MEETING / CORRESPONDENCE

No neighborhood meeting was required for the proposed project since it does not include a request for a General Plan Amendment, Rezoning or any other action requiring the preparation of an Environmental Impact Report (EIR). A neighborhood meeting was conducted on May 18, 2016 for the project when it was originally submitted for review. Notice of the public hearing for the application to modify the affordable housing requirements of this approved project have been conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was mailed to all property owners and occupants within a 300-foot radius of the project site and all other interested parties a minimum of 15 calendar days prior to the date of this hearing. Additionally, notice was posted on the project site.

As of the writing of this report, staff has not received any public comments on the project. Any public comment received will be forwarded to the Commission.

OPTIONS

The Planning Commission has the following options:

1. Adopt resolution approving of the requested height bonus as presented (staff recommendation)
2. Adopt resolution approving the requested height bonus with certain modifications or additional conditions of approval;
3. Continue the public hearing on the requested height bonus to all allow the applicant or staff to address any of the Planning Commission's comments or concerns; or
4. Deny the requested height bonus and direct staff to return with a revised resolution.

EXHIBITS

1. Draft Resolution
2. Applicant Request for Modification of Affordable Housing Requirement, dated September 14, 2021

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL PLANNING COMMISSION MODIFYING CONDITIONS OF APPROVAL OF ENVIRONMENTAL AND DESIGN REVIEW (ED16-038), USE PERMIT (UP16-018) AND VESTING TENTATIVE MAP (S16-001) TO ALLOW FULFILLMENT OF THE AFFORDABLE HOUSING REQUIREMENT IN ACCORDANCE WITH CITY COUNCIL RESOLUTION 14890. THE PROJECT IS LOCATED AT 1007, 1020 AND 1030 NORTHGATE DR. (FORMERLY 1005 AND 1010 NORTHGATE DR.; APNS: 178-240-17 & -21)

WHEREAS, on July 23, 2019, the San Rafael Planning Commission adopted Resolution 19-07 approving entitlements for a development of a 138-unit condominium project consisting of three new buildings. Said entitlement included approval of Vesting Tentative Map, Use Permit and Environmental and Design Review; and

WHEREAS, condition of approval of Vesting Tentative Map, Use Permit and Environmental and Design Review for the project required 28 Below Market Rate Units in accordance with San Rafael Municipal Code Section 14.16.030 in effect at the time of the approvals; and

WHEREAS, on March 1, 2021, the City Council enacted ordinance 1990 amending SRMC 14.16.030 and Resolution 14890 which sets forth the affordable housing requirements for housing developments within the City. Said ordinance established affordable housing requirement for housing developments of greater than 15 units to be split into a primary requirement (5% of units to be constructed onsite) and a secondary requirement (option of on-site or off-site development; dedication of land; or payment of in-lieu fees);

WHEREAS, SRMC Section 14.16.030, as modified by Ordinance 1990, allows modifications of the affordable housing component of projects that were approved prior to the effective date of Ordinance 1990 but have not yet commenced construction; and

WHEREAS, on September 27, 2021, subsequent to adoption of Ordinance 1990, the City received an application requesting modification of the affordable housing obligation for the project approved at 1007, 1020, and 1030 Northgate Drive, such project including entitlements and conditions of approval for Vesting Tentative Map (S16-001), Use Permit (UP16-018) and Environmental and Design Review (ED16-038); and

WHEREAS, Assembly Bill (AB) 1561 granted an automatic 18-month extension to certain housing development entitlements due to ongoing economic challenges created by the COVID-19 pandemic, thus extending the expiration date for Vesting Tentative Map (S16-001), Use Permit (UP16-018) and Environmental and Design Review (ED16-038) from July 23, 2021 to January 23, 2023; and

WHEREAS, the applicant is proposing to comply with Ordinance 1990 and Resolution 14890 by providing fourteen (14) onsite below market rate units affordable to a low income households at 65% of the AMI to address both the primary requirement and the secondary requirement; and

WHEREAS, the proposed modification is consistent with Resolution 14890; and

WHEREAS the proposed 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 qualifies for exemption pursuant to CEQA Guidelines Section 15183(a) because it entails a project that can be found consistent with the General Plan policies and pursuant to CEQA Guidelines Section 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; and

NOW THEREFORE BE IT RESOLVED, the Planning Commission of the City of San Rafael does hereby approve modifications to conditions of approval for Environmental and Design Review Permit (ED16-038), Vesting Tentative Map (S16-001), Use Permit (UP16-018) for the project located at 1007, 1020, and 1030 Northgate Drive as follows:

**Environmental and Design Review Permit (ED16-038)
Conditions of Approval**

General and On-Going

Community Development Department, Planning Division

1. The building techniques, colors, materials, elevations and appearance of the project, as presented to the Planning Commission at their July 23, 2019 hearing, stamped "approved" and on file with the Community Development Department, Planning Division, shall be the same as required for issuance of all building permits, subject to these conditions. Minor modifications or revisions to the project shall be subject to review and approval of the Community Development Department, Planning Division. Further modifications deemed not minor by the Community Development Director shall require review and approval by the original decision-making body, the Planning Commission, and may require review and recommendation by the City's Design Review Board.
2. The approved colors for the project are on file with the Community Development Department, Planning Division. Any future modification to the color palette shall be subject to review and approval by the Planning Division and those modifications not deemed minor shall be referred to the Design Review Board for review and recommendation prior to approval by the Planning Division.
3. This Environmental and Design Review Permit approves:
 - a) The demolition of an existing commercial building and self-serve gas station and the construction of a new, 36'-high, residential building for 'senior' residents with 30 condominium units above 29 garage parking spaces at 1007 Northgate Dr.;
 - b) The construction of a new, 36'-high, mixed-use building with 48 condominium units above 147 garage parking spaces for residents and their guests and hotel guest and 'hospitality' space (restaurant, bar and dividable meeting room) for the adjacent hotel (1010 Northgate Dr.) at 1020 Northgate Dr.; and
 - c) The construction of a new, 36'-high residential building with 58 condominium units above 207 garage parking spaces for residents and their guests and hotel guest at 1030 Northgate Dr.

4. All 'off-haul' of excavation and delivery/pick-up of construction equipment shall occur during off-peak weekday hours, between 9:00 a.m. and 4:00 p.m., Monday through Friday only.
5. All grading and construction activities shall be limited to 8 a.m. to 6 p.m., Monday through Friday. Low-noise construction, occurring entirely within the interior of the building, may be permissible on Saturdays with prior approval by the Planning Division and only after the building is completely enclosed (walls, roof, doors and windows). If requested and approved, Saturday work shall be limited to 9 a.m. to 6 p.m. Any work on Sundays and federally-recognized holidays is strictly prohibited.
6. Final landscape and irrigation plans for the project shall comply with the provisions of Marin Municipal Water District's (MMWD) most recent water conservation ordinance and graywater recycling system requirements. Construction plans submitted for issuance of building/grading permit shall be pre-approved by MMWD and stamped as approved by MMWD or include a letter from MMWD approving the final landscape and irrigation plans. Modifications to the final landscape and irrigation plans, as required by MMWD, shall be subject to review and approval of the Community Development Department, Planning Division.
7. All new landscaping shall be irrigated with an automatic drip system and maintained in a healthy and thriving condition, free of weeds and debris, at all times. Any dying or dead landscaping shall be replaced in a timely fashion.
8. All site improvements, including but not limited to the site lighting, hardscape, and paving striping shall be maintained in good, undamaged condition at all times. Any damaged improvements shall be replaced in a timely manner.
9. The site shall be kept free of litter and garbage. Any trash, junk or damaged materials that are accumulated on the site shall be removed and disposed of in a timely manner.
10. All public streets and sidewalks and on-site streets which are privately owned that are impacted by the grading and construction operation for the project shall be kept clean and free of debris at all times. The general contractor shall sweep the nearest street and sidewalk adjacent to the site on a daily basis unless conditions require greater frequency of sweeping.
11. All submitted building permit plan sets shall include a plan sheet incorporating these conditions of approval.
12. If archaeological or cultural resources are accidentally discovered during excavation/grading activities, all work will stop within 100 feet of the resource and the qualified archaeologist will be notified immediately. The qualified archaeologist will contact Federated Indians of Graton Rancheria (FIGR) and the Planning Division and coordinate the appropriate evaluation of the find and implement any additional treatment or protection, if required. No work shall occur in the vicinity until approved by the qualified archaeologist, FIGR and Planning staff. Prehistoric resources that may be identified include, but shall not be limited to, concentrations of stone tools and manufacturing debris made of obsidian, basalt and other stone materials, milling equipment such as bedrock mortars, portable mortars and pestles and locally darkened soils (midden) that may contain dietary remains such as shell and bone, as well as human remains. Historic resources that may be identified include, but are not limited to, small cemeteries or burial plots, structural foundations, cabin pads, cans with soldered seams or tops, or bottles or fragments or clear and colored glass.

13. If human remains are encountered (or suspected) during any project-related activity, all work will halt within 100 feet of the project and the County Coroner will be contacted to evaluate the situation. If the County Coroner determines that the human remains are of Native American origin, the County Coroner shall notify FIGR within 24-hours of such identification who will work with Planning staff to determine the proper treatment of the remains. No work shall occur in the vicinity without approval from Planning staff.
14. The project shall implement, and adhere to, the following recommended Best Management Practices to reduce potential grading and construction noise impacts on nearby sensitive receptors:
- Equip all grading and construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards;
 - Place all stationary construction equipment so that emitted noise is directed away from sensitive receptor nearest the project site;
 - Locate equipment staging in areas that would create the greatest possible distance between noise sources and noise-sensitive receptor nearest the project site;
 - All noise producing grading and construction activities, including warming-up or servicing equipment and any preparation for grading or construction, shall be limited to the hours between 7 a.m. and 6 p.m. on weekdays and between 9 a.m. and 6 p.m. on Saturdays. No grading or construction activities shall occur on Sundays or federally-recognized holidays.
 - Designate a "disturbance coordinator" who will be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and determine and implement reasonable measures warranted to correct the noise issue.
15. The project shall implement, and adhere to, the recommended tree protection and tree trimming guidelines at all times, including but not limited to:
- Tree Protection Fencing. All trees to be retained shall receive Tree Protection Fencing (TPF) in order to prevent direct damage to the trees and their growing environment. The TPF shall consist of blaze orange barrier fencing supported by metal "T-tail" fence posts. The TPF shall be placed at a distance that is at or outside the driplines of retained trees to the extent feasible. TPF shall be installed before site preparation, grading, construction or tree trimming activities and shall be installed under the supervision of a qualified arborist.
 - Use of Heavy Equipment. Heavy equipment shall not be allowed to operate or park within or around areas containing retained trees, unless these areas are currently paved surfaces. If it is necessary for heavy machinery to operate within the dripline of retained trees, a layer of mulch or pea gravel at least four inches (4") in depth shall be placed on the ground beneath the dripline. A 3/4-inch (3/4") sheet of plywood shall be placed on top of the mulch. The plywood and mulch shall be removed once grading and/or construction activities are complete.
 - Storage of Construction Materials and Debris. Construction materials (e.g., gravel, aggregate, heavy equipment) or project debris and waste material shall not be placed adjacent to or against the trunks of retained trees.
 - Attachments. The attachment of wires, signs and ropes to any retained tree is strictly prohibited.
 - Trimming. The following trimming guidelines shall be followed at all times:

- All pruning of retained trees shall be performed by a licensed contractor familiar with International Society of Arboriculture pruning guidelines and shall comply with the guidelines established by the International Society of Arboriculture which includes Best Management Practices for Tree Pruning;
 - All trimming shall be pruned back to an appropriately sized lateral or to the trunk by following proper pruning guidelines; and
 - All trimming shall be conducted by or under the supervision of a certified arborist.
16. All HVAC equipment shall be installed on the rooftop and behind a parapet to create a noise barrier and reduce potential noise levels. In the alternative, ground-mounted HVAC equipment shall be adequately enclosed or shielded.
17. To reduce potential interior noise impacts on the residential units within the project, the following measures are required (Noise Impact Analysis; LSA Associates, Inc., dated March 2016); page 28): a) In order to allow windows and doors to remain closed, mechanical ventilation, such as air conditioning, shall be provided; b) All vent ducts connecting interior spaces to the exterior (i.e., bathroom exhaust, etc.) shall have at least two (2) 90° turns in the duct; and c) All windows and doors shall be installed in an acoustically-effective manner where sliding window panels shall form an air-tight seal when in the closed position, the window frames shall be caulked to the wall opening around the perimeter with a non-hardening caulking compound to prevent sound infiltration and exterior doors shall seal air-tight around the full perimeter when in the closed position.
18. All windows and doors for residential units at 1030 Northgate Dr (closest building to U.S. Highway 101) shall be constructed with Sound Transmission Class (STC) ratings. All windows and doors rated STC 36 or higher shall have glass lite thickness no less than 3/16 inch.
19. 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.
20. 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.

21. 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, processing 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 the City for City Attorney expenses and costs within 30 days following billing of same by the City.
22. This Environmental and Design Review Permit ~~shall run with the land and shall remain valid regardless of any change of ownership of the project site,~~ subject to these conditions. ~~This so long as this Environmental and Design Review Permit will is~~ fully vested. Fully vested shall mean that once a building/grading permit is issued and 'substantial construction' is commenced for all three (3) new residential buildings or a time extension request is submitted to and approved by the City's Community Development Department, Planning Division, within two (2) years of original approval, or July 23, 2021 by July 25, 2023. (~~'Substantial construction' is defined as the pouring of all required foundations and the installation of vertical components, such as exterior walls.~~ Failure to obtain a grading/building permit and commence 'substantial construction' on all three (3) new residential buildings, or failure to obtain a time extension within the ~~two-year period~~ eighteen-month period, will result in the expiration of this Environmental and Design Review Permit.
23. This Environmental and Design Review Permit does not approve phasing of the project approvals. Phasing of the project approvals shall require amendment of this Environmental and Design Review Permit and shall be supported with a phasing plan with reasonable and reliable milestones for development of the site, as approved by the project.
24. This Environmental and Design Review Permit shall run concurrently with the Use Permit (UP16-018) approval. If the Environmental and Design Review Permit expires, the Use Permit approval shall also expire and become invalid.

Prior to Issuance of Grading/Building Permits

Community Development Department, Planning Division

25. All trash and recycling facilities shall be approved by Marin Sanitary Service and a letter approving the location and sizing of these facilities shall be submitted with the building permit.
26. The location and dimensional size of all communal refuse and recycling facilities shall be shown on the building permit plans. All communal refuse and recycling facilities shall be screened from public view.
27. The project sponsor shall inform the contractor, general contractor or site supervisor of these requirements and shall be responsible for informing subcontractors of these requirements and for implementing these measures on the site.
28. Any outstanding Planning Division application processing fees shall be paid.
29. All mechanical equipment (i.e., air conditioning units, meters and transformers) and appurtenances not entirely enclosed within the structure (on side of building or roof) shall be

screened from public view. The method used to accomplish the screening shall be indicated on the building plans and approved by the Planning Division.

30. Proposed retaining walls along the U.S. Highway 101 elevation will be up to 13' in height. These significant retaining walls shall be redesigned to conform more and work better with existing topography. These retaining walls shall be reduced in height of equal height and staggered or offset with landscape improvements between and below the retaining wall sections.
31. If grading and/or construction activities (e.g., ground disturbance, tree removal or tree trimming) are scheduled during the bird nesting season (typically defined by the California Department of Fish and Wildlife as February 15 to August 31), a qualified licensed biologist shall conduct a preconstruction survey for nesting birds no more than 14 days prior to the start of the work. If the survey indicated the presence of nesting birds, the biologist shall delineate a buffer zone where no grading and/or construction will occur until the biologist has determined that all young have successfully fledged. The size of the buffer shall be determined by the biologist and will be based on the nesting species and its sensitivity to disturbance. Typical buffer zones are 50' for passerines and up to 250' for raptors. Nests shall be monitored regularly to determine if grading and/or construction activities are affecting the nesting activities and when young birds have fledged.
32. When trimming large branches or removing trees from the site, the cut branches and trees will be left in place overnight to allow foliage roosting bats to escape and find new roosting sites in the adjacent habitat. Branches and trees can be removed from the site or chipped the following day.
33. An acoustical test report of all sound-rated windows and doors, by a qualified (licensed) acoustical consultant, shall be submitted to Planning, ensuring that the selected windows and doors would reduce the interior noise levels to normally acceptable level adopted by the City (i.e., 40 dBA in bedrooms and 45 dBA in all other rooms).
34. A Construction Management Plan (CMP) shall be prepared and submitted to the Planning Division for review and approval. The CMP shall include a projected schedule of work, projected daily construction truck trips, proposed construction truck route, location of material staging areas, location of construction trailers, location of construction worker parking, a statement that the project shall conform to the City's Noise Ordinance (Chapter 8.13 of the San Rafael Municipal Code), a statement that no construction truck traffic shall encroach into any of the surrounding residential neighborhood streets at any time, and a statement that the existing roadway conditions on Northgate Dr. and Manuel Freitas Pkwy shall be memorialized on digital recording format prior to the start of construction and that the project sponsor shall be required to repair any roadway damage created by the additional construction truck traffic. In the event that the CMP is conflicting with any conditions imposed by the grading permit for the project, the more restrictive language or conditions shall prevail.
35. The project shall mitigate potential air quality impacts associated with construction and grading activities by preparing and submitting a Dust Control Plan to the City of San Rafael Community Development Department for review and approval. This Dust Control Plan shall implement BAAQMD (Bay Area Air Quality Management District) established standard measures (*Basic Construction Mitigation Measures*) for reducing fugitive dust emissions, including but not limited to:

- All exposed surfaces (e.g., parking areas, staging areas soil piles, graded areas and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
 - Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure; Title 13, Section 2485 of California Code of Regulations (CCR)). Clear signage shall be provided for grading and construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - A publicly visible sign shall be posted with the telephone number and the person to contact at the City of San Rafael regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.
36. The project shall complete a soil vapor survey at 1007 Northgate Dr. (prior address, 1005 Northgate Dr.) to determine the necessity of incorporating a chemical or gas impermeable vapor barrier or membrane into the design of the senior residential development. Boring samples points, generally, shall be taken across the site. Final sampling points shall be determined after consultation with RWQCB (San Francisco Regional Water Quality Control Board). The soil vapor sampling results shall be provided to RWQCB for comparison with RWQCB residential Environmental Screening Levels for Total Petroleum Hydrocarbons for gasoline and benzene.
37. Soil shall be field screened or sampled by an on-site environmental consultant in areas identified or suspected as having the potential to have impacted soil present, in the vicinity of the underground fuel storage tanks and dispenser islands, as deemed appropriate by the environmental consultant or as reported by the grading contractor for the project or subcontractors. If required, soil samples shall be screened for the presence of volatile organic compounds, using a hand-held photo-ionization detector (PID). Samples with PID levels greater than 10 parts per million by volume shall require laboratory testing. If soils are required to be excavated from the impacted areas, such soil will be stockpiled separately on-site pending characterization for offsite disposal. Stockpiled soil shall be covered by an impermeable liner, such as plastic sheeting, to control odors and fugitive dust emissions, reduce potential infiltration by rainwater, and minimize the potential for cross-contamination of underlying soil. Stockpiles shall be checked daily by the contractor to verify that they are adequately covered.
38. ~~The project shall comply with the City's inclusionary or affordable housing requirement (currently Section 14.16.030 of the SRMC) by providing a minimum of 14 affordable housing units.~~

- a. ~~If the project proposes to provide condominium units, 14 units shall be required at the low-income household level (3 units at 1007 Northgate Dr., 5 units at 1020 Northgate Dr. and 6 units at 1030 Northgate Dr.) and 14 units shall be required at the moderate-income household level (3 units at 1007 Northgate Dr., 5 units at 1020 Northgate Dr. and 6 units at 1030 Northgate Dr.);~~
- b. ~~If the project proposes to provide rental units, 14 units shall be required at the very low-income household level (3 units at 1007 Northgate Dr., 5 units at 1020 Northgate Dr. and 6 units at 1030 Northgate Dr.) and 14 units at the low-income household level (3 units at 1007 Northgate Dr., 5 units at 1020 Northgate Dr. and 6 units at 1030 Northgate Dr.); and~~
- c. ~~The project sponsor is required to enter into a BMR (below market rate) agreement with Marin Housing Authority, deed-restricting the income level for occupancy of the affordable units and obtain City Council approval of the BMR agreements. The 'senior' residential building at 1007 Northgate Dr shall provide a total of 6 BMR units; all 1-bedroom BMR units. The new mixed-use building at 1020 Northgate Dr. shall provide a total of 10 BMR units (2 studio BMR units, 2, 1-bedroom BMR units and 6, 2-bedroom BMR units). The new residential building at 1030 Northgate Dr. shall provide a total of 12 BMR units (2 studio BMR units, 4, 1-bedroom BMR units and 6, 2-bedroom BMR units). These BMR units shall be spread out evenly throughout the floors of each building. If the project proposes to provide condominium units, the location of these BMR units shall be shown on the final map and shall be subject to review and approval by the City as part of the its consideration of the BMR agreements. If the project proposes to provide rental units, the location of these BMR units may 'float' though they shall be 'bunched' together. These BMR units shall be comparable in size, finishes and unit mixture to the market rate units.~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with both the primary and secondary affordable housing requirements by providing fourteen (14) affordable units on-site.

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, the applicant shall enter into a Below Market Rate (BMR) agreement. The BMR agreement for the fourteen (14) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households at a maximum of 65% of AMI.

These BMR units shall be spread out evenly throughout the floors of each building. If the project proposes to provide condominium units, the location of these BMR units shall be shown on the final map and shall be subject to review and approval by the City as part of its consideration of the BMR agreements. These BMR units shall be comparable in size, finishes and unit mixture to the market rate units. The location, size, and number of bedrooms for each of the BMR units shall be identified on the project plans and shall be subject to review and approval of the Community Development Director as part of the City's consideration of the BMR agreement, pursuant to requirements in SRMC Section 14.03.030 and in Assembly Bill (AB) 491.

Department of Public Works

39. A grading permit is required for the project from the Department of Public Works (111 Morphew St.). The grading permit submittal shall include a site-specific erosion and sediment control plan
40. The project sponsor shall obtain an encroachment permit for any work within the Right-of-Way (ROW) from the Department of Public Works. Access to the adjacent properties shall be maintained throughout construction unless alternative arrangements are made.
41. The proposed bicycle storage rooms for each building shall be located as close to the garage entrances as possible to provide more direct access and limit the distance traveled through the garages, which thereby, improves safety by reducing potential conflicts with motor vehicles.
42. The proposed stormwater drainage system is designed for multiple parcels. A stormwater maintenance agreement shall be required. Depending on how the stormwater maintenance agreement is proposed for the properties, a drainage easement may be required.
43. Per San Rafael Municipal Code (SRMC) Section 15.07.030, all driveways shall not exceed a grade of 18%. Provide a profile for the driveways and ramps to show that the proposed slopes and transitions are compliant and adequate. Show the driveway vertical curves demonstrating that a vehicle will not scrape or bottom out when accessing the steep driveways.
44. The geotechnical report indicates soil tie-backs may be necessary for construction of some retaining walls, which may extend beyond the property line and into easements Show all retaining wall footing and soil tie-back encroachments on the project plans. Provide easements if crossing property lines.
45. Due to soil conditions and the size of the excavation proposed by the project, a third-party review shall be required for the geotechnical report and design. The project sponsor, or successor, shall provide a \$5,000.00 deposit for this peer review, which shall be completed prior to issuance building or grading permits.
46. Due to the proximity of the first driveway for the proposed building at 1007 Northgate Dr. to Manuel Freitas Parkway, "KEEP CLEAR" pavement striping along Northgate Dr. will be required.
47. To improve pedestrian safety, the existing marked crosswalks and signalized crossings at the Freitas Parkway/Northgate Dr. intersection shall be improved to provide pedestrian signal heads and/or push buttons. The project shall contribute the cost to install these pedestrian facilities to the City.
48. To improve pedestrian circulation, the Freitas Parkway/Northgate Dr. intersection shall be redesigned to eliminate the 'pork chop' islands and tighten the curb radii on the north leg of the intersection. This redesign shall be done in conjunction with the added pedestrian crossing features listed above.
49. The project shall comply with the adopted San Rafael Bicycle and Pedestrian Master Plan Update, which calls for a Class 1 multi-use path and/or six foot (6')-wide sidewalk along Manuel Freitas Parkway. The project shall either provide the Right-of-Way for the City's future construction of these improvements and/or contribute the cost to construct these pedestrian improvements to the City.

50. The project shall pay a traffic mitigation fee of ~~\$229,284~~ for 54 additional peak hour (36 a.m. and 18 p.m.) traffic trips ~~(54 x \$4,246)~~.

Community Development Department, Building Division

51. School fees will be required for the project. Calculations are done by the Dixie School District, and those fees are paid directly to them and proof of payment shall be submitted to the Building Division prior to issuance of the building permit.

52. The design and construction of all site alterations shall comply with the current editions of the California Building Code, Plumbing Code, Electrical Code, California Mechanical Code, California Fire Code, California Energy Code, Title 24 California Energy Efficiency Standards, California Green Building Standards Code and City of San Rafael Ordinances and Amendments.

53. A building permit is required for the proposed work. Applications shall be accompanied by four (4) complete sets of construction drawings to include:

- a) Architectural plans
- b) Structural plans
- c) Electrical plans
- d) Plumbing plans
- e) Mechanical plans
- f) Site/civil plans (clearly identifying grade plan and height of the building)
- g) Structural Calculations
- h) Truss Calculations
- i) Soils reports
- j) Green Building documentation
- k) Title-24 energy documentation

54. The occupancy classification, construction type and square footage of each building shall be specified on the plans in addition to justification calculations for the allowable area of each building. Site/civil plans prepared by a California licensed surveyor or engineer clearly showing topography, identifying grade plane and height of the building.

55. The new buildings contain several different occupancy types. Individual occupancies are categorized with different levels of hazard and may need to be separated from other occupancy types for safety reasons. Under mixed-occupancy conditions the project architect has available several design methodologies (accessory occupancies, non-separated occupancies, and separated occupancies) to address the mixed-occupancy concerns.

56. Site/civil plans prepared by a California licensed surveyor or engineer must clearly show topography and identify grade plane and height of the building. The building height must comply with CBC (California Building Code) Section 504 and Table 503. On the plan, justify the proposed building height.

57. Building areas are limited by CBC Table 503. On the plan justify the proposed building area.

58. Buildings located four (4) or more stories above grade plane shall provide one stairwell extending to the roof, unless the roof slope exceeds an angle of 4 vertical to 12 horizontal CBC 1009.13.

59. The maximum area of unprotected and protected openings permitted in the exterior wall in any story of a building shall not exceed the percentages specified in CBC Table 705.8 "Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree of Opening Protection." To calculate the maximum area of exterior wall openings you must provide the building setback distance from the property lines and then justify the percentage of proposed wall openings and include whether the opening is unprotected or protected:
- 15% exterior wall openings (in any story) in sprinklered buildings where the openings are 3' to less than 5' from the property line or buildings on the same property.
 - 25% exterior wall openings (in any story) in sprinklered buildings where the openings are 5' to less than 10' from the property line or buildings on the same property.
 - 45% exterior wall openings (in any story) in sprinklered buildings where the openings are 10' to less than 15' from the property line or buildings on the same property
60. Each building shall 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. For new buildings, the address shall be internally-illuminated or externally-illuminated and remain illuminated at all hours of darkness. Number shall be a minimum 6 inches in height with ½ inch stroke for commercial applications. The address shall be contrasting in color to their background (SMC 12.12.20).
61. The address for structures is determined by the Chief Building Official. The address of the existing building on this parcel is 1010 Northgate Drive. The building on the adjacent property is 1050. The tentative address for the proposed mixed-use building is **1020 Northgate Drive**. The address for the "New Residential Building" will be **1030 Northgate Drive**; the address of the "Senior Housing Building" will be **1007 Northgate Drive**. These proposed addresses will be legalized upon completion of construction. However, each page of the plan's title block and all permit application documents must show the proposed building's address identification information.
62. Bollards must be placed in the garage to protect mechanical equipment from vehicular damage when located in the path of a vehicle (if applicable).
63. Any demolition of existing structures shall require a permit. Demolition permit submittal shall include three (3) copies of the site plan, asbestos certification and PG&E disconnect notice. All required permits from the Bay Area Air Quality Management District shall be obtained and documentation provided prior to building permit issuance and any work commencing.
64. School fees will be required for the project. School fees for residential construction are currently computed at \$3.79 per square foot of new living area, Commercial space is computed at \$0.61 per square foot of new building area. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit.
65. Improvements within on-site privately-owned streets, such as retaining walls, street light standards, and private sewer systems, may require plan review and permits from either the Department of Public Works or the Building Division.
66. A grading permit is required for any grading or site remediation, soils export, import and placement. Provide a detailed soils report prepared by a qualified engineer to address these procedures. In particular, 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.

67. Property lines shown through proposed buildings must be eliminated by consolidation or buildings must be relocated, redesigned to fall within property line boundaries.
68. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted. Building pad locations will have to be surveyed and marked prior to placement of foundations.
69. All site signage requires a separate permit (excluding address numbering).
70. Monument sign(s) located at the driveway entrance(s) shall have address numbers posted prominently on the monument sign. This would apply particularly at or near the intersection of Northgate Drive and Freitas Parkway.
71. In the parking garage, mechanical ventilation will be required capable of exhausting a minimum of .75 cubic feet per minute per square foot of gross floor area CMC Table 4-4.
72. In the parking garage, in areas where motor vehicles are stored, floor surfaces shall be of noncombustible, nonabsorbent materials. Floors shall drain to an approved oil separator or trap discharging to sewers in accordance with the Plumbing Code and SWIPP.
73. The parking garage ceiling height shall have a minimum vertical clearance of 8' 2" where required for accessible parking.
74. Any public area within each building shall be provided with sanitary facilities per CPC Sec 412 and Table 4-1 (including provisions for persons with disabilities). Separate facilities may be required for each sex depending on use.
75. Minimum elevator car size (interior dimension) 60" wide by 30" deep with an entrance opening of at least 60" or a car size of 42" wide by 48" deep with an entrance opening of 36" or a car size of 60" wide by 36" deep with an entrance opening of at least 36".
76. All buildings with four (4) or more floors and one or more elevators shall provide not less than one medical emergency service elevator. The medical emergency service elevator shall accommodate the loading and transport of an ambulance gurney or stretcher. The elevator car size shall have a minimum clear distance between walls and door excluding return panels not less than 80" x 54" and a minimum distance from wall to return panel not less than 51" with a 42" side slide door.
77. The project shall be designed to provide access to the physically disabled in accordance with requirements of Title-24, California Code of Regulation. For existing buildings and facilities when alterations, structural repairs or additions are made, accessibility improvements for persons with disabilities may be required. Improvements shall be made, but are not limited to, the following accessible features:
 - a) Path of travel from public transportation point of arrival
 - b) Routes of travel between buildings
 - c) Accessible parking
 - d) Ramps

- e) All public entrances
- f) Sanitary facilities (restrooms)
- g) Drinking fountains & Public telephones (when provided)
- h) Accessible features per specific occupancy requirements
- i) Accessible special features, (i.e., ATM's point of sale machines, etc.)

78. The site development of items such as common sidewalks, parking areas, stairs, ramps, common facilities, etc. are subject to compliance with the accessibility standards contained in Title-24, California Code of Regulations. Pedestrian access provisions should provide a minimum 48" wide unobstructed paved surface to and along all accessible routes. Items such as signs, meter pedestals, light standards, trash receptacles, etc., shall not encroach on this 4' minimum width. Also, note that sidewalk slopes and side slopes shall not exceed published minimums per California Title 24, Part 2. The civil, grading and landscape plans shall address these requirements to the extent possible.
79. The parking garages shall have a minimum vertical clearance of 8' 2" ceiling height where required for accessible parking.
80. Multistory apartment with three (3) or more residential units or condominium buildings with four (4) or more residential units shall provide at least 10% of the dwelling units, but no less than one (1) dwelling unit, which comply with the accessible requirements per CBC 1102A.3.
81. Multifamily dwelling and apartment accessible parking spaces shall be provided at a minimum rate of 2 percent of the covered multifamily dwelling units. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2%.
82. When parking is provided for multifamily dwellings and is not assigned to a resident or a group of residents, at least 5% of the parking spaces shall be accessible and provide access to grade-level entrances of multifamily dwellings and facilities (e.g. swimming pools, club houses, recreation areas and laundry rooms) that serve the dwellings. Accessible parking spaces shall be located on the shortest accessible route to an accessible building, or dwelling unit entrance.
83. Public accommodation disabled parking spaces must be provided according to the following table and must be uniformly distributed throughout the site:

| Total Number of Parking Spaces Provided | Minimum Required Number of H/C Spaces |
|---|--|
| 1 to 25 | 1 |
| 26 to 50 | 2 |
| 51 to 75 | 3 |
| 76 to 100 | 4 |
| 101 to 150 | 5 |
| 151 to 200 | 6 |
| 201 to 300 | 7 |
| 301 to 400 | 8 |
| 401 to 500 | 9 |
| 501 to 1,000 | Two percent of total |
| 1,001 and over | Twenty, plus one for each 100 or fraction thereof over 1,001 |

84. At least one (1) disabled parking space shall be van-accessible, 9' in width plus an 8'-wide off- load area or 17'-wide overall. Additionally, one in every eight required handicap spaces shall be van accessible.
85. Minimum shower size in the fully accessible room must be a minimum of 60" wide by 30".
86. This project will be required to employ recycled water for both landscaping and inside the building for water closets for both the residential and commercial spaces. Check with Marin Municipal Water District (MMWD) for details.
87. This project will be required to employ a gray water reuse system. Check with MMWD for details.
88. The proposed residential units shall meet the sound attenuation requirements of CBC Chapter 12. In particular, the residential units facing both Manuel Freitas Parkway and U.S. Highway 101 will likely require special glazing and/or sound attenuation features to compensate for the adjacent traffic/street noise.

Las Gallinas Valley Sanitation District (LGVSD)

89. The proposed project must apply for and receive an allocation of sewer capacity from this District before it can receive sewer services. Please download the application form at: http://www.lgvsd.org/docs/application_allocation.pdf.
90. The proposed project must make satisfactory arrangements with this District for the construction of any off-site or on-site sewers which may be required.
91. LGVSD requires a special site visit with the applicant to discuss potential capacity and access issues. Applicant shall provide adequate vehicle access to all sanitary manholes on the sewer main for District maintenance activities. The area needs to be paved and accessible with a 39-foot long truck.
92. Provide profile and sewer flow calculations for proposed sanitary sewer main.
93. The project applicant shall be responsible for preparation of quitclaim deeds and new sewer easement documents necessary for recordation by the District.
94. All new precast concrete manholes (MH) shall be HDPE or PVC T-lock lined. As an option, applicant may use fiberglass reinforced plastic manholes. Lateral connection to existing 12" trunk sewer shall have inside drop, if necessary. New SS shall be 8" PVC C905.
95. Submit details for all sanitary sewer (SS) facilities, e.g. backwater prevention devices for sewer laterals).
96. Add a plumbing fixture unit (PFU) table for each proposed and existing building showing both existing and proposed plumbing fixture unit counts per most current edition of the California Plumbing Code.
97. The applicant shall perform closed circuit television (CCTV) inspection of all existing sanitary sewers and building laterals within the property, which the applicant intends of reusing for the renovated structures and new buildings. Submit a CCTV inspection report in DVD format to the District for review.

98. Resubmit revised plans for LGVSD review.

99. ~~Based on District Ordinance adopted on August 10, 2017, preliminary cost estimates are:~~

Applicant shall provide payment of required fees for new residential units prior to issuance of a building permit. Based on fees that are effective July 1, 2021, preliminary cost estimates are:

- a) For new buildings, structures, and developments:
 - I. ~~\$5,9686,666~~ per Equivalent Sewer Unit.
 - II. Actual fees may be adjusted according to specific conditions outlined in the Ordinance.
- b) For existing buildings, structures, and developments:
 - I. ~~\$298333~~ per Plumbing Fixture Unit (PFU).
 - II. Credit may be given to existing plumbing fixtures.
- c) Applicant shall reimburse the District for all plan review, field verification before and after construction, and inspection fees accrued associated with this project. The estimate cost is \$7,500. Actual fees may be adjusted according to project specific conditions.
- d) For more information about District Ordinance and permitting process, please visit <http://www.lqvsd.org/>.

San Rafael Fire Department, Fire Prevention Bureau

100. The design and construction of all site alterations shall comply with the current editions of the California Fire Code and City of San Rafael Ordinances and Amendments.

101. 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:

- a) Fire Sprinkler plans (Deferred Submittal to the Fire Prevention Bureau)
- b) Fire Standpipe plans (Deferred Submittal to the Fire Prevention Bureau)
- c) Private Fire Service Main plans (Deferred Submittal to the Fire Prevention Bureau)
- d) Fire Alarm plans (Deferred Submittal to the Fire Prevention Bureau)

102. Show the location of address numbers on the building elevation. Each building shall have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Please refer to Fire Prevention Bureau Premises Identification Standards 09-1001, Table 1.

103. As the building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building. The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.

104. The minimum unobstructed width for an aerial fire apparatus access road is 26'.

105. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building.

106. Where a fire hydrant is located on a fire apparatus access road, the minimum width of the road shall be 26'. The 26' width is required to remain clear and unobstructed for at least 20' of the roadway on each side of the fire hydrant.

107. Aerial fire apparatus access roads shall be designated "fire lanes"; with curbs painted red and contrasting white lettering stating "No Parking Fire Lane" and signs shall be posted in accordance CFC Section 503.3.
108. When a building is fully sprinklered, all portions of the exterior building perimeter shall be located within 250' of an approved fire apparatus access road.
109. The minimum width of the fire apparatus access road is 20'.
110. The minimum inside turning radius for a fire apparatus access road is 28'.
111. The fire apparatus access road serving this building is more than 150' in length which will require an approved turnaround. Contact the Fire Prevention Bureau for specific details.
112. Provide stairways for roof access to each building.
113. At least one (1) elevator in each building shall be designated as an accessible means of egress and will require emergency power. Please show the locations of the emergency generators. Separate permits will be required to be issued for any above ground fuel storage tanks.
114. Each building shall provide a least one (1) elevator that will accommodate an ambulance stretcher per CBC 3002.4.
115. Hazardous materials placards shall be installed in accordance with NFPA 704.
116. A fire apparatus access plan shall be prepared for this project. Fire apparatus plan shall show the location the following:
 - a) Designated fire apparatus access roads.
 - b) Red curbs and no parking fire lane signs.
 - c) Onsite fire hydrants.
 - d) Fire Department Connection (FDC).
 - e) Double detector check valve.
 - f) Street address sign.
 - g) Recessed Knox Box
 - h) Fire Alarm annunciator panel.
 - i) Provide a note on the plans as follows: "The designated fire apparatus access roads and fire hydrant shall be installed and approved by the Fire Prevention Bureau prior construction of the building".
117. A Knox Box is required at the primary point of first response to the building. A recessed mounted Knox Box # 3275 Series is required for this project; the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72" to 78" above finish grade; show the location on the plans.
118. It appears that at least two of Post Indicator Valves and Fire Department Connections will need to be relocated to accommodate the construction. Please show the locations of the relocated devices.
119. Contact the Marin Municipal Water District (MMWD) to make arrangements for MMWD to provide adequate water supply service for the required fire protection system.

During Construction

Marin Municipal Water District (MMWD)

120. The project shall require the relocation of existing MMWD water main. All costs associated with relocation of the water facilities are borne by the applicant. The relocated water main shall be included within an appropriate utility easement.
121. District records indicate that the property's current annual water entitlement is insufficient to meet the water demand for the project and the purchase of additional water entitlement will be required. Additional water entitlement will be available upon request and fulfillment of the following requirements:
- a) Complete a High-Pressure Water Service Application.
 - b) Submit a copy of the building permit.
 - c) Pay the appropriate fees and charges.
 - d) Comply with the District's rules and regulations in effect at the time service is requested, including the installation of a meter per structure per use.
 - e) Comply with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures shall meet specific efficiency requirements. Landscape, irrigation, grading and fixture plans shall be submitted to the District for review and approval. Any questions regarding District Code Title 13 – Water Conservation should be directed to the District's Water Conservation Department at (415) 945-1497. You may also find information on the District's water conservation requirements online at www.marinwater.org.
 - f) 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.
 - g) Use of recycled water is required, where available, for all approved uses, including irrigation and the flushing of toilets and urinals. Questions regarding the use of recycled water should be directed to Dewey Sorensen at (415) 945-1558.
 - h) Installation of gray water recycling systems is required when practicable.

Pacific Gas & Electric

122. Electric and gas service to the project site will be provided in accordance with the applicable extension rules, which are available on PG&E's website at <http://www.pge.com/myhome/customerservice/other/newconstruction> or contact (800) PGE-5000. It is highly recommended that PG&E be contacted as soon as possible so that there is adequate time to engineer all required improvements and to schedule any site work.
123. The cost of relocating any existing PG&E facilities or conversion of existing overhead facilities to underground shall be the sole responsibility of the applicant or property owner.
124. Prior to the start excavation or construction, the general contractor shall call Underground Service Alert (USA) at (800) 227-2600 to have the location of any existing underground facilities marked in the field.

Community Development Department, Planning Division

125. To reduce daytime noise impacts due to construction, to the maximum feasible extent, the applicant shall develop a site-specific noise reduction program, subject to City review and approval, which includes the following measures:

- a) Signs shall be posted describing the permitted hours of construction in a conspicuous location near the property entrance legible from the edge of the roadway. The exact wording of the sign is prescribed by the City's Noise Ordinance.
- b) An on-site complaint and enforcement manager shall be designated to respond to and track complaints.
- c) A pre-construction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices are completed prior to the issuance of a building permit (including construction hours, neighborhood notification, posted signs, etc.).
- d) Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds, wherever feasible).
- e) Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.
- f) Stationary noise sources shall be located as far from the adjacent residences as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.

Prior to Occupancy

Community Development Department, Planning Division

126. Private streets are proposed to extend from Northgate Dr. across all four (4) parcels (1007, 1010, 1020 and 1030 Northgate Dr.). This Environmental and Design Review Permit requires the project sponsor, or its successor, to execute and record a declaration of restriction, or similar legally-binding instrument approved by the Community Development Director, on the property titles to all four (4) parcels, providing common shared access for use by residents, hotel guests and staff.
127. A pedestrian path, with exercise stations and seating areas, are proposed to cross all four (4) parcels (1007, 1010, 1020 and 1030 Northgate Dr.). This Environmental and Design Review Permit requires the project sponsor, or its successor, to execute and record a declaration of restriction, or similar legally-binding instrument approved by the Community Development Director, on the property titles to all four (4) parcels, providing common shared access for use by residents, hotel guests and staff.
128. Prior to occupancy of any of the units, a post construction report from an acoustical engineer shall be submitted to the Planning Division verifying that the multifamily residential units comply with the interior noise standard as prescribed by State Administrative Code standards, Title 25, Part 2.
129. Prior to occupancy of any of the units, a post construction report from a lighting engineer shall be submitted to the Planning Division verifying that the lighting levels comply with the approved photometric plan.

130. Prior to occupancy, the project Geotechnical Engineer shall submit a letter to the City identifying that the project Geotechnical Engineer inspected the project during the construction and the project complied with their recommendations and that all recommendations were properly incorporated during construction of the project
131. Final inspection of the project by the Community Development Department, Planning Division, is required. The applicant shall contact the Planning Division to request a final inspection upon completion of the project. The final inspection shall require a minimum of 48-hour advance notice.
132. All landscaping and irrigation shall be installed prior to occupancy. In the alternative, the applicant or property owner shall post a bond with the City in the amount of the estimated landscaping/irrigation installed cost. In the event that a bond is posted, all areas proposed for landscaping shall be covered with bark or a substitute material approved by the Planning Division prior to occupancy. Deferred landscaping through a bond shall not exceed 3 months past occupancy.
133. The landscape architect for the project shall submit a letter to the Planning Division, confirming the landscaping has been installed in compliance with the approved project plans and the irrigation is fully functioning.
134. All ground- and rooftop-mounted mechanical equipment shall be fully screened from public view.
135. All communal refuse and recycling shall be fully screened from public view.

After Occupancy

Community Development Department, Planning Division

136. Following the issuance of a Certificate of Occupancy, all new exterior lighting shall be subject to a 90-day lighting level review period by the City to ensure that all lighting sources provide safety for the building occupants while not creating a glare or hazard on adjacent streets or be annoying to adjacent residents. During this lighting review period, the City may require adjustments in the direction or intensity of the lighting, if necessary. All exterior lighting shall include a master photoelectric cell with an automatic timer system, where the intensity of illumination shall be turned off during daylight.
137. The three (3) tandem parking spaces approved with the new residential building at 1030 Northgate Dr. shall be relocated from the hotel use to the residents use. These tandem parking spaces shall be reserved for, and used exclusively by, owners of the 2-bedroom or 3.-bedroom units. The project shall assign these tandem parking spaces, through sales agreements, to owners of the 2-bedroom or 3.-bedroom units only.

Use Permit (UP16-018) Conditions of Approval

General and On-Going

Community Development Department, Planning Division

1. This Use Permit approves remote parking to satisfy the parking requirement for the existing hotel. This Use Permit approves the relocation of 139 existing and required surface parking

spaces for hotel guest use to 1020 Northgate Dr. (7 surface parking spaces plus 41 garage parking spaces) and 1030 Northgate Dr. (91 garage parking spaces).

2. This Use Permit will fully vest once a building/grading permit is issued and ~~'substantial construction' is commenced for all three (3) new residential buildings~~ or a time extension request is submitted to and approved by the City's Community Development Department, Planning Division ~~within two (2) years~~ **eighteen (18) months** of original approval, or ~~July 23, 2021~~ **July 25, 2023**. (~~'Substantial construction' is defined as the pouring of all required foundations and the installation of vertical components, such as exterior walls~~). Failure to obtain a grading/building permit and ~~commence 'substantial construction' on all three (3) new residential buildings~~ or submit a time extension request by the specified date will result in the expiration of this Use Permit.
3. This Use Permit does not approve phasing of the project approvals. Phasing of the project approvals shall require amendment of this Use Permit and shall be supported with a phasing plan with reasonable and reliable milestones for development of the site, as approved by the project.
4. This Use Permit shall run concurrently with the Environmental and Design Review Permit (ED16-038) approval. If the Use Permit expires, the Environmental and Design Review Permit approval shall also expire and become invalid.

Prior to Occupancy

Community Development Department, Planning Division

5. This Use Permit requires the project sponsor, or its successor, to execute and record a declaration of restriction, or similar legally-binding instrument approved by the Community Development Director, on the property titles to 1020 Northgate Dr. and 1030 Northgate Dr., restricting the use of these 139 remote parking spaces for exclusive use by hotel guests and staff for as long as the hotel exists and is in operation.

Vesting Tentative Map (S16-001) Conditions of Approval

General and On-Going

Community Development Department, Planning Division

1. The Tentative Map (S16-001) shall be valid for a period of ~~two (2) years~~ eighteen (18) months from the date of Planning Commission approval, or until **July 25, 2023**, and shall become null and void unless a Final Map has been recorded or a time extension is granted.
2. ~~Prior to the issuance of a building or grading permit or prior to recordation of the final map, whichever occurs first, Below Market Rate (BMR) agreements for 28 affordable units shall be approved by the City Council and recorded on the respective properties (1007, 1020 and 1030 Northgate Dr.) and shall be consistent with Condition No. 27 below (Environmental and Design Review Permit ED16-038).~~

The project is required to provide a primary and secondary affordable housing requirement pursuant to San Rafael Municipal Code Section 14.16.030 and City Council Resolution 14890. The applicant shall comply with both the primary and secondary affordable housing requirements by providing fourteen (14) affordable units on-site.

Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, the applicant shall enter into a Below Market Rate (BMR) agreement. The BMR agreement for the fourteen (14) affordable unit shall be approved by the Community Development Director and City Manager and recorded on the property. Consistent with the affordable housing requirements, the affordable housing units shall be affordable to low-income households at a maximum of 65% of AMI.

These BMR units shall be spread out evenly throughout the floors of each building. If the project proposes to provide condominium units, the location of these BMR units shall be shown on the final map and shall be subject to review and approval by the City as part of its consideration of the BMR agreements. These BMR units shall be comparable in size, finishes and unit mixture to the market rate units. The location, size, and number of bedrooms for each of the BMR units shall be identified on the project plans and shall be subject to review and approval of the Community Development Director as part of the City's consideration of the BMR agreement, pursuant to requirements in SRMC Section 14.03.030 and in Assembly Bill (AB) 491.

3. Prior to issuance of building or grading permit or prior to the recordation of a Final Map, whichever occurs first, in lieu parkland dedication fees for 136 new condominium units shall be paid to the City (~~136 units x \$1,967.98, parkland dedication fee as of July 23, 2019 = \$267,645.28~~) in accordance with the provisions of City Council Ordinance No. 1558. Parkland dedication in lieu fees are, at this time, based on 1989 dollars. Adjustments of this figure may be necessary at the time of fee payment if the fair market value for parkland and associated improvements is adjusted in accordance with Section 15.38.045 of the Ordinance.
4. Conditions, Covenants and Restrictions (CC&R's) shall be prepared and submitted with an application for a Final Map. The CC&R's shall include the following requirements and provisions:
 - a) The formation of a homeowner's association (HOA).
 - b) HOA responsibilities for ongoing maintenance of the shared or common facilities, including but not limited to the common driveway, common landscaping and irrigation, fencing, subdivision infrastructure improvements (storm water and sanitary sewer facilities) and exterior building and lighting improvements.
 - c) HOA financial responsibilities.
 - d) Restrictions and regulations imposed on each lot owner. The CC&R's shall include provisions which restrict the use of the tandem parking spaces (1030 Northgate Dr.) to the parking of motor vehicles to 2-bedroom units only.
 - e) Requirements and provisions for professional management services or the services of a Certified Public Accountant to oversee the HOA responsibilities and budget.
5. Prior to recordation of the Final Map, the CC&Rs shall be reviewed and approved by the Community Development Department, Planning Division, and the City Attorney's Office.
6. Approved CC&Rs shall be recorded concurrently with the Final Map.

Department of Public Works

7. Prior to the issuance of a building or grading permit or prior to recordation of the final map, the complete road access, pathway, all utility and, possibly, drainage and retaining wall easements shall be adequately shown on the plans. Recordation of all new easements and

quitclaim deeds shall be required prior to issuance of a building or grading permit or prior to recordation of the final map.

8. A Final Map shall be required prior to occupancy. Provide a copy of the recent title report. The map shall be reviewed by the City Surveyor and City Engineer. Please see Title 15 of the Municipal Code for Final Map requirements. If the installation of subdivision improvements is not completed prior to recordation of a Final Map, a subdivision improvement agreement and security, such as a bond or deposit shall be required.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 25th day of January 2022.

Moved by Commissioner XXXX and seconded by Commissioner XXXX.

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

ABSTAIN: Commissioners:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
Leslie Mendez, Secretary

BY: _____
Shingai Samudzi, Chair

9/14/2021

Via E-Mail Only

Steve Stafford
Department of Community Development
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

**Re: Northgate Walk - Request for Modification of
Affordable Housing Requirement**

Dear Mr. Stafford:

I am writing on behalf of San Rafael Hillcrest, LLC, and San Rafael Commercial, LLC (“Owner”), the owner and developer of the Northgate Walk residential condominium project located at 1010 and 1005 Northgate Drive, San Rafael. Northgate Walk was approved on July 23, 2019, for 136 for-sale residential units, including 14 units affordable to Low Income households and 14 units affordable to Moderate Income households.

I would like to thank the City of San Rafael for its decision to amend the affordable housing requirements for residential developments. I previously wrote to Mayor Colin and the City Councilmembers in December 2020 (“December Letter”) in support of such an amendment.

There are many obstacles to the actual construction of approved housing, including land acquisition costs, substantial permit fees, and construction costs. The costs of labor and materials for the Northgate Walk project have increased significantly. It is well-established at this time that due to the pandemic there is a lumber shortage which has in turn caused the cost of lumber to increase nearly five-fold in the course of one year. As also explained in the December Letter, the Northgate Walk project went through a multi-year development and approval process which entailed many concessions as to project design and density. These concessions resulted in a loss of anticipated revenue for the project.

In addition to the obstacles detailed above, the requirement to provide 20% of units as Below Market Rate units is a major impediment to proceeding with the construction of Northgate Walk. As stated in the December Letter, a requirement to provide 10% of a project’s units as BMR could be a decisive factor to facilitate the actual construction of Northgate Walk and provide much-needed housing for San Rafael. Accordingly, pursuant to Ordinance No. 1990, Owner hereby formally requests that the affordable housing requirements for Northgate Walk be modified from 20% of units (10% at Low Income level and 10% at Moderate Income level) to 10% of units at Low Income.

Significantly, if approved, the modification of the affordable housing requirements for the Northgate Walk project will achieve the desired objective of incentivizing the construction of the Northgate Walk project and its 136 units, including 14 units affordable at the Low Income level.

The requested modification is within the parameters of the Ordinance. Initially, per the amendments to SRMC 14.16.030, the City Council allowed projects having already received City approval, but not yet having started construction, the ability to apply for modification of their approval to be consistent with the new lowered affordable housing requirements. Northgate Walk received City approval in 2019, but has not started construction at this time.

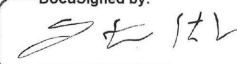
Further, as a development with greater than 15 units, the requested modification shall satisfy the primary and secondary requirement set forth in Resolution No. 14890 through the provision of actual units.

The primary requirement mandates that 5% of the proposed units (excluding density bonus units) must be affordable to and occupied by a low-income household. 5% of 136 units results in 6.8 units. Per Resolution 14890, subsection B.3, where the required percentage of affordable housing units results in a combination of affordable housing units and fractional units, if the fractional unit is 0.5 and above, the developer shall construct the next higher whole number of affordable housing unit. Accordingly, the project will provide 7 units affordable at the Low Income level units to satisfy the primary requirement for a project of greater than 15 housing units.

Owner has elected to satisfy the Secondary Requirement by complying with Resolution 14890, subsection B.2.a.i, which allows the provision of 5% of the base density units, in addition to the primary requirement, as affordable to and occupied by a low-income household. Accordingly, the project will provide 7 units affordable at the Low Income level units to satisfy the secondary requirement.

In accordance with the requirements of Ordinance 1990 and the Guidelines for the Administration of the Affordable Housing Trust Fund, the Northgate Walk project requests to modify the affordable housing component of the project to provide 14 Low Income units subject to the same pro-rata distribution as originally approved.

Sincerely,

DocuSigned by:

73ABA2A2FB674BD...

Steve Hartunian



SAN RAFAEL
THE CITY WITH A MISSION

**Community Development Department –
Planning Division**

Meeting Date: January 25, 2022
Agenda Item: 3
Case Numbers: P22-01
Project Planners: Jacob Noonan
(415) 295-5471
Alicia Giudice
(415) 485-3092

REPORT TO PLANNING COMMISSION

TOPIC Design Review Advisory Committee (DRAC) 1-Year Pilot Program

SUBJECT: RESOLUTION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE AMENDING THE ZONING CODE TO ESTABLISH THE DESIGN REVIEW ADVISORY COMMITTEE (DRAC); AND ADOPTION OF A RESOLUTION TO ESTABLISH A 1-YEAR DRAC PILOT PROGRAM

EXECUTIVE SUMMARY

For the past few years, the City Council has been receiving informational reports related to housing and the challenges to housing development and, as a result, directed staff to explore the issues related to the challenges to the approval and development of housing in San Rafael and to identify changes that could be made to facilitate housing development. Staff presented follow-up reports, met with community members and stakeholder groups, and identified a list of recommended measures that, if implemented, could address challenges to housing production by providing clarity and simplifying the review process, providing options for development of affordable units, and exploring other opportunities to increase housing. One such item was exploring the establishment of a Design Review Advisory Committee (DRAC) that would have advisory design review authority of certain types of projects. Staff has prepared a proposed structure of the DRAC and is asking the Planning Commission (PC) to consider the proposed establishment of a DRAC for a one-year time frame that would serve as a pilot program as envisioned by the City Council. Input received from the PC will be combined with input previously received from the Design Review Board (DRB) and will be provided to the City Council at a future meeting.

RECOMMENDATION

It is recommended that the Planning Commission take the following action: Adopt a Resolution recommending City Council adopt the proposed zoning code amendment establishing a Design Review Advisory Committee as a subcommittee of the full Design Review Board (DRB); and establish the one-year DRAC Pilot Program.

BACKGROUND AND ANALYSIS

Over the past few years, the City Council has received informational reports related to housing and the challenges to housing development. The City Council directed staff to explore the issues related to the challenges to the approval and development of housing in San Rafael and to identify changes that could be made to facilitate housing development. Staff presented follow-up reports, met with community

members and stakeholder groups, and prepared identified a list of recommended measures that, if implemented, could address challenges to housing production by providing clarity in and simplifying the review process, providing options for development of affordable units and exploring other opportunities to increase housing. The following is a timeline of presentations that occurred over the past few years.

August 20, 2018: The City Council was presented a comprehensive, [informational report](#) on challenges to housing development and the approval process. In response to the housing report information, the City Council directed staff to follow-up on four specific housing topics and issues. One of these four topics/issues was the challenges to the approval and development of housing in San Rafael.

September 3, 2019: City staff presented an updated [informational report](#) on challenges to housing development. The report presented 11 key challenges pertaining to the approval and development of housing in San Rafael and identified 13 recommended measures to address these challenges. Staff was directed to host several public housing workshops to solicit the public's view on the housing crisis, as well as to get feedback on the prioritization of on the proposed policy actions. The City hosted two housing workshops that were attended by the Mayor, City Council, and the public. These workshops informed the public about issues surrounding the housing crisis and obtained feedback from both the public and City Council.

January 21, 2020: City staff presented an updated [informational report](#) on staff recommendations for prioritization, timing, and future City Council actions on proposed policy actions to address challenges to approving and developing housing. At this meeting the City Council directed staff to return with a report on potential amendments to the San Rafael Municipal Code (SRMC) aimed at encouraging development and streamline approvals.

March 16, 2020: A Shelter-in-Place was ordered for Marin County to limit the spread of COVID- 19. The shelter-in-place order was cause for cancelling all City Boards and Commissions meetings. While Boards and Commission meetings were cancelled, staff continued to process Planning applications, which required a review and input by the DRB. To keep these projects moving without the ability to schedule and conduct an open, public meeting, a DRB Subcommittee comprised of two DRB members was formed to review and provide review and recommendations on design matters of current Planning applications. Implementation of this DRB Subcommittee was in line with the potential options for changes already presented to City Council in the January 21, 2020 informational report.

The DRB Subcommittee was comprised of one Board member that is a licensed architect and one that is a licensed landscape architect and served in the same capacity as the full Board. Meetings with the DRB subcommittee were held as consultations rather than public meetings. The public continued to be afforded public participation and noticing when the project moved forward for formal action on an application. Receiving positive feedback from community members and applicants, staff prepared a proposal to move forward with the concept.

August 11th, 2020: Staff presented to the Planning Commission a report analyzing potential amendments to the SRMC resulting from City Council direction. At this meeting the Planning Commission provided feedback on the potential amendments and generally supported the amendments proposed by staff.

[September 8, 2020](#) and [September 21, 2020](#): The City Council received an updated report on the status of measures to facilitate housing development & streamline approvals and focused on four main areas of the SRMC:

- A. Inclusionary Housing Requirement
- B. Density Bonus
- C. SRMC Amendments to Encourage Development and Streamline Approvals, including amendments related to small lot development, hillside exceptions process and appeals process.
- D. Formalize Design Review Board Subcommittee

At the September 21st meeting, the City Council directed staff to proceed with Code Amendments related to Items A-C above and to explore a pilot program for item D related to a DRAC structure and process and expressed a commitment to assuring public participation. Items A-C have been completed through adoption of code amendments that occurred in March 2021. This report is focused on Item D.

November 4, 2020: Staff presented the Design Review Board with a report on the concept DRAC. Staff requested feedback from the board regarding structure, membership, noticing options, and types of projects to be reviewed by the DRAC. Members of the DRB provided feedback to assure adequate public notice and process, allow projects to be referred to the full DRB, and reduce the size of staff reports as a time savings measure.

February 17, 2021: Staff used the comments received at the DRB meeting and prepared a draft document defining the structure of the one-year DRAC Pilot Program. At the February 17th meeting, staff presented the DRB with a [report](#) on the draft DRAC Pilot Program which incorporated the comments received from the DRB on November 4, 2020. The structure of the DRAC is described in more detail under the *Proposed DRAC Pilot Program* section below. In summary, the DRAC would be structured to have a subcommittee of the DRB participate in a combined PC/DRAC meeting on certain types of projects that would be defined in the DRAC Program (Exhibit 3). The PC/DRAC meeting would be a fully noticed public meeting and all members of the public would be allowed to provide comment on the project prior to a decision. Staff requested feedback from the DRB on the proposed program at the meeting on February 17, 2021 and DRB members provided the following comments:

- Most prefer a three-member committee. (Staff note: A three-member committee had originally been explored. Following consultation with the City Attorney, it was determined that a three-member DRAC would constitute a quorum of the DRB. Following further review, staff concluded that three-member DRAC would merely replicate the full, five-member Board);
- Important that building design is right, since buildings will be around for 50 to 100 years; concerned the DRAC may streamline approval leading to less-than-ideal design;
- Concern that serving on the DRAC could result in a substantial amount of work by the DRAC members;
- A lot of influence is placed on the architect that is on the DRAC; and
- Ideal if items requiring DRAC review could be placed near the beginning of the agenda so that DRAC members would be excused after their item(s).

PROPOSED DRAC PILOT PROGRAM

Staff has prepared a draft resolution (Exhibit 1) for the Planning Commission to consider recommending the City Council adopt an ordinance amending the zoning code to establish the DRAC and to create a one-year DRAC Pilot Program. Staff is now seeking input from the Planning Commission on the draft resolution and the proposed DRAC one-year pilot program summarized in this report and defined in Exhibits 2, 3 and 4 based on the input provided by DRB members on November 4, 2020 and February 17, 2022. Exhibit 2 provides the required language amendment to the SRMC necessary to effectuate the DRAC Pilot Program. Exhibit 3 provides a write up of the draft DRAC Pilot Program and its structure and parameters. Exhibit 4 provides a flow chart illustrating how the design review process would flow under the proposed draft DRAC Pilot Program. Staff estimates a minimum processing savings of two months for applicable housing developments, with a median average processing efficiency of three to four months.

The DRAC Pilot Program can be summarized as follows:

1. Once a residential project is deemed complete the project will be reviewed for design following one of two pathways. The pathway selected will be based on whether the project is categorized at a “minor” or “major” project as defined in SRMC 14.25.040.
2. Projects subject to Minor Environmental Design Review (SRMC §14.25.040.B) will be reviewed by the Zoning Administrator following current procedures (SRMC §14.25.020.B) and the DRAC may be invited at the discretion of the Zoning Administrator to provide consultation. The public will be noticed and there will be an opportunity to comment prior to a decision on the project.

3. Projects subject to Major Environmental Design Review (SRMC §14.25.040.A) will be reviewed as follows:
 - a. Projects eligible for DRAC-level review (see bulleted list below) will be reviewed concurrently by the DRAC and the PC during the the PC on the project. The DRAC members will be able to ask questions and will have an opportunity to comment during the PC deliberation on the project. The public will be noticed of the dual PC/DRAC meeting and provided the opportunity to provide comment and participate in the meeting prior to the PC issuing a decision on the project.
 - b. Projects not eligible for DRAC-level review will be reviewed by the full DRB following current review process.

Criteria for DRAC-level Environmental Design Review:

- DRAC review authority is limited to certain residential projects: new construction of residential projects of up to ten units and additions of no more than 40% of building area and no more than three additional units on properties with three to ten units;
- The members on the DRAC may refer a project to the full Design Review Board (if a project is controversial for example);
- Membership on the DRAC will be limited to two (2) members + one (1) alternating member;
- Membership on the DRAC will be selected from the sitting Design Review Board.
- Meetings of the DRAC will be combined with the Planning Commission meeting (and Zoning Administrator hearing, if requested for consultation) for efficiency;
- Public notice will be provided as part of the regular noticing requirements for Planning Commission and Zoning Administrator; and
- Opportunity for public input will be provided prior to and during the combined meeting.

NEXT STEPS

The next step will be to present the City Council the proposed one-year DRAC Pilot Program along with the recommendation from the Planning Commission. The one-year of the pilot program would begin following City Council action creating the program. Following the one-year term, the effectiveness of the pilot program will be assessed and a recommendation will be provided to the City Council. Recommendation may include continuation of the program, opportunities to modify and/or expand the program, or discontinue the program entirely.

The one-year DRAC Pilot Program is one approach to streamlining the permitting process and additional possible options will be coming forward for the PC and DRB to consider. For several years the state legislature has adopted laws intended to streamline residential project review. This has included a requirement to establish Objective Design Standards (SB35) intended to establish a ministerial review process and create more certainty for applicants in design review approval, and the Housing Crisis Act of 2019 (SB330, as amended by SB8) which limits the number of meetings a city may hold to five for certain residential projects and mixed use projects which are two-thirds residential by square footage; and more recently SB9 which mandates a ministerial review for certain types of residential projects and lot splits. To implement state law, additional changes to our code and City processes will be necessary.

COMMUNITY OUTREACH

As described in the Background Section, The City Council has held meetings on August 20, 2018, September 3, 2019, January 21, 2020, September 8, 2020, and September 21, 2020. Staff also held two evening public workshops dedicated to the housing topics and policies to streamline the development review process on November 3, 2019, and November 14, 2019. Feedback received at these meetings was used to create the Draft Structure of the Design Review Advisory Committee and the Draft Structure of the DRAC was presented to the DRB on February 17, 2021. All meetings and workshops were publicly noticed to stakeholders, agencies, and special interest groups 15-days prior to each of these meetings.

Notice of this January 25, 2022 PC meeting was mailed to all neighborhood groups/ homeowner associations within the city, as well as other commercial and housing advocacy groups. A public notice ran in the Marin Independent Journal on January 8, 2022.

EXHIBITS

1. Resolution
2. Draft Amendment to Section 14.25.070 of the San Rafael Municipal Code
3. Design Review Advisory Committee (DRAC) One-Year Draft Pilot Program
4. DRAC Flow Chart
5. Public Comment

RESOLUTION NO.

**RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION
RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE OF THE
CITY OF SAN RAFAEL AMENDING TITLE 14.25.070 (DESIGN REVIEW BOARD) TO
ESTABLISH THE DESIGN REVIEW ADVOSORY COMMITTEE (DRAC); AND
ADOPTION OF A RESOLUTION OF THE CITY OF SAN RAFAEL TO ESTABLISH A
1-YEAR DRAC PILOT PROGRAM
(P22-01)**

WHEREAS, regulations relating to the Design Review Commission are located in Section 14.25 (Environmental and Design Review Permits) of the San Rafael Municipal Code (SRMC); and

WHEREAS, the City Council has received informational reports on the challenges to housing development in San Rafael on August 20, 2018, September 3, 2019, and January 19, 2020 and directed the exploration of solutions to encourage residential development and streamline development approval; and

WHEREAS, the draft amendment to Section 14.25.070 of the SRMC would establish the Design Review Advisory Committee (DRAC) to serve as environmental design review advisory body for certain development projects as defined in the 1-year DRAC Pilot Program; and

WHEREAS, establishing a 1-year DRAC Pilot Program would explore how the City might reduce process and streamline development approval while continuing to achieve environmental design and maintain opportunities for the public to comment on new development applications and participate in the approval process, and

WHEREAS, on February 4, 2021 and 17, 2021, the Design Review Board considered the proposed 1-year DRAC Pilot Program and provided feedback that was incorporated into the proposed program; and

WHEREAS, on January 25, 2022, the Planning Commission held a duly-noticed public hearing on the proposed amendments to Section 14.25.070 of the San Rafael Municipal Code and the proposed 1-year DRAC pilot program, accepted all public testimony and the written report of the Community Development Department; and

NOW, THEREFORE, BE IT RESOLVED, that:

The Planning Commission recommends to the City Council adoption of the amendments to the San Rafael Municipal Code provided in Attachment A of this resolution, based on the following findings as required under Section 14.27.060 of the SRMC:

1. The amendment to Section 14.25.070 of the SRMC is consistent in principle with the San Rafael General Plan and serves the public health, safety and general welfare in that:
 - a. As proposed, the amendment would establish the Design Review Advisory Committee as a subset of the Design Review Board to review

EXHIBIT 1

development applications for certain residential development projects and in so doing reduced and streamline approval processes which aligns with the requirement of the housing element of the general plan to identify and reduce governmental constraints and barriers to the development of housing, and

- b. As proposed, the amendment would serve the health, safety and general welfare of the public by establishing the advisory committee of the design review board as an exploratory means of reducing process and streamlining residential development approval while achieving environmental design and maintaining opportunity for public comment and participation.

The Planning Commission further recommends to the City Council adoption of a resolution establishing the 1-year Design Review Advisory Committee (DRAC) Pilot Program provided in Attachment B of this resolution.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 25th day of January 2022.

Moved by

AYES:

NOES:

ABSENT:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____ on behalf of
Leslie Mendez, Secretary

ATTACHMENTS:

- A. Draft amendment to Section 14.25.070 (Design Review Board) of the San Rafael Municipal Code.
- B. Draft 1-year Design Review Advisory Committee (DRAC) Pilot Program

Exhibit 2

Proposed Amendments to San Rafael Municipal Code

Proposed amendments to the San Rafael Municipal Code establishing the Design Review Advisory Committee are provided below. Proposed new language is underlined.

14.25.070 Design review board & Design Review Advisory Committee.

- A. Purpose and Authority. The design review board and design review advisory committee (DRAC) shall serve as an advisory body to the city for the purpose of reviewing and formulating recommendations on all major physical improvements requiring environmental and design review permits and on other design matters, including minor physical improvements or administrative design permits, referred to the board by the community development director, planning commission or city council. The design review board shall provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for their use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards adopted by the city council. The DRAC shall serve as a subcommittee of the full design review board and shall provide recommendations on matters delegated to the DRAC by the City Council per City Council Resolution.

EXHIBIT 3

Design Review Advisory Committee Pilot Program

- A. Purpose and Authority. The Design Review Advisory Committee (DRAC) shall serve as a subcommittee of the full Design Review Board established under San Rafael Municipal Code Section 14.25.070. The DRAC will operate for a temporary one-year term.

The DRAC will be an advisory body to the city for the purpose of reviewing and formulating recommendations on the following major physical improvements which are subject to Major Environmental Design Review (requiring planning commission action):

- Residential structures of 10 units or less (does not apply to projects subject to Minor Environmental Design Review).
- Additions to multifamily residential structures of between three (3) to ten (10) units, where the addition constitutes more than forty percent (40%) of the total square footage of the building but would not increase the unit count by more than 3 units.

The DRAC will serve as an advisory body on Minor Environmental and Design Review and Administrative Design Review items as well as other items referred to the DRAC by the community development director, zoning administrator, planning commission or city council.

The DRAC purpose is to provide professional design analysis, and design guidance to the applicant on behalf of staff and may comment on the completeness, competence, and appropriateness of development proposals for their use and setting. The DRAC is not a formal body and does not take formal action on a project. However, the DRAC may provide recommendation to the zoning administrator, planning commission or city council.

- B. Membership of the DRAC. The DRAC shall be made up of a total of two (3) active members of the full Design Review Board who shall serve on a one-year rotational basis. Members shall be made up of the following:

1. One (1) licensed architect,
2. One (1) licensed landscape architect, and
3. One (1) alternate member who shall be a licensed architect or licensed landscape architect

- C. Alternate Member. The alternate member may temporarily fill in in the event a regular DRAC member is unable to participate or if one of the following occurs:

- a regular member leaves office prior to completion of the member's term,
- a regular member cannot attend a meeting, or
- a regular member cannot otherwise participate on a particular matter due to a conflict of interest.

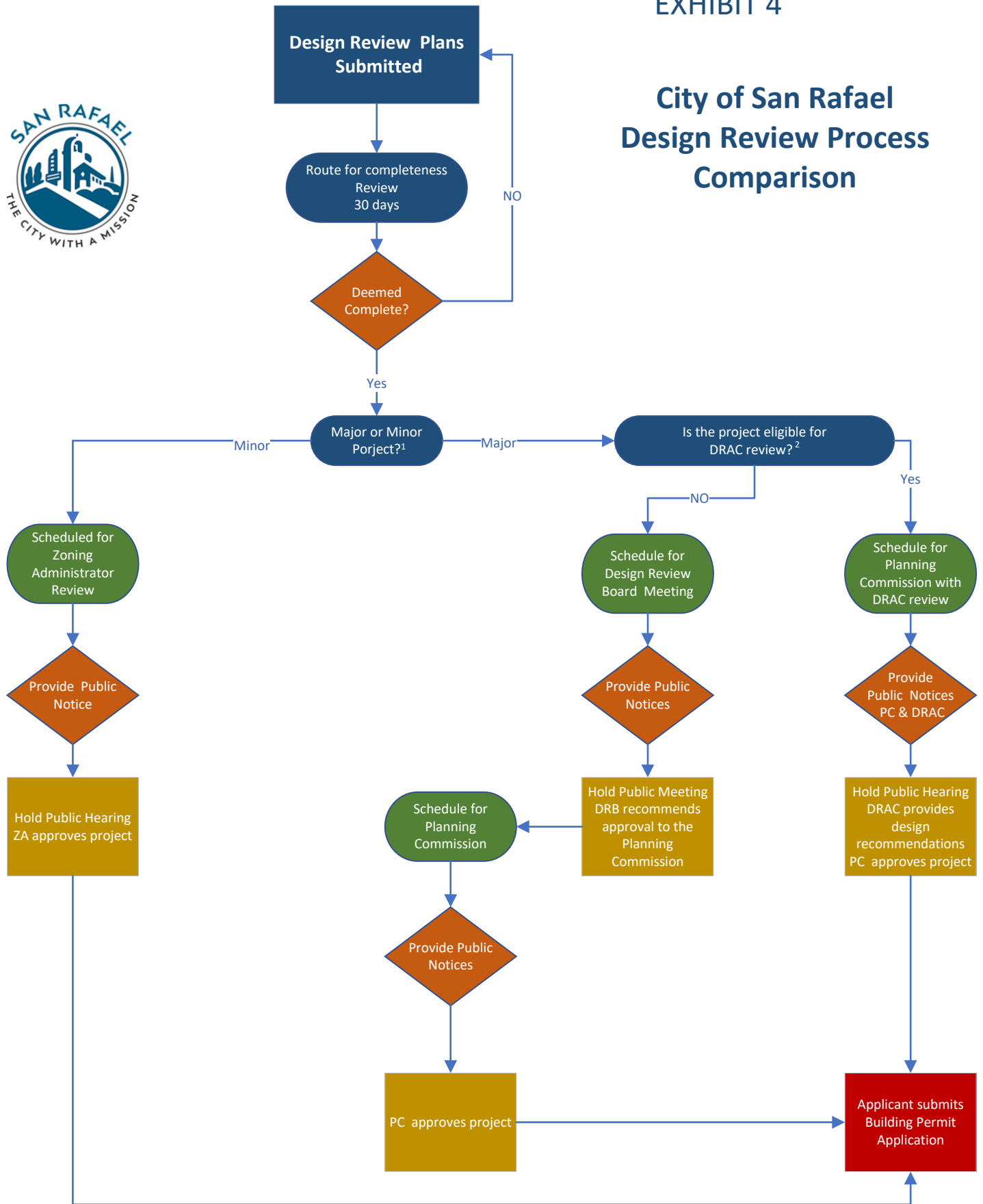
- D. Meetings. The DRAC members shall participate at a public hearing by the Planning Commission as may be required from time to time to provide recommendations on the types of projects described in Section A above. The DRAC members shall be notified of such meetings by the Staff Liaison to the Design Review Board. The DRAC may also be invited to provide consultation on projects subject to staff level review or Zoning Administrator level review and may be requested to attend meetings on such projects.

EXHIBIT 3

- E. Referral to the full DRB. If at any time, it is determined that a project meeting the criteria in Section A above, would benefit from the full Design Review Board due to proposed design, size, or surroundings, the project may be referred to the full DRB.
- F. Action by the DRAC. The DRAC serves as an informal subcommittee. No official action is taken. The DRAC will be provided an opportunity to ask questions and provided an opportunity to comment as part of the Planning Commission deliberation during a public hearing on the project. Recommendations will be considered by the Planning Commission and may be incorporated as conditions of approval.
- J. Public Notice. Notice of projects subject to the DRAC review shall be made in tandem with notifications for the Planning Commission meetings as required for such projects. In addition to other noticing requirements, notices subject to DRAC recommendation shall include a statement that the project is subject to DRAC review which will occur at the same time the Planning Commission reviews the project.

DRAFT

City of San Rafael Design Review Process Comparison



1. Per SMRC 14.25.040

2. Eligible Projects include the following:

- a) Residential structures of 10 units or less (does not apply to projects subject to Minor Environmental Design Review).
- b) Additions to multifamily residential structures of between three (3) to ten (10) units, where the addition constitutes more than forty percent (40%) of the total square footage of the building but would not increase the unit count by more than 3 units.

January 19, 2022

San Rafael Planning Commission
c/o Jacob Noonan, Housing Program Manager
City of San Rafael
1400 Fifth Ave. Room 203
San Rafael, CA. 94901
via email 1/19/22: leslie.mendez@cityofsanrafael.org, jacob.noonan@cityofsanrafael.org,
PlanningPublicComment@cityofsanrafael.org

PLANNING COMMISSION Hearing for Tuesday, January 25, 2022 -
Agenda Item: Design Review Advisory Committee (DRAC) 1-Year Pilot Program

Planning Commissioners:

We have the following comments:

1. Maintain full (5-member) Design Review Board meetings for all Hillside projects

We **SUPPORT** maintaining public noticed meetings of the Full (5-member) Design Review Board for *ALL HILLSIDE PROJECTS*, which requires design professionals to review projects for compliance with City Council adopted standards for hillside development, including:

- SRMC 14.12 HILLSIDE DEVELOPMENT OVERLAY DISTRICT, and
- HILLSIDE RESIDENTIAL DESIGN GUIDELINES MANUAL

We think DRAC would provide inferior results for our hillside projects, possibly deferring design issues to the Planning Commission or even the Building Department. We have seen “problems” caught early on by our design review board members, such as errors in lot square footage and slope calculations, critical calculations for hillside projects. The Design Review Board consists of licensed architects who have expertise that is not duplicated on the Planning Commission.

The full board can provide expertise from different backgrounds to successfully resolve design challenges on hillside lots that are difficult to develop because of shape, size or topography. Ideas from all board members contribute to improved compliance with our Hillside development standards and limits those projects requesting Exceptions, which require approval by the City Council. Various design recommendations from board members result in less bias. The synergistic effect of the full board providing recommendations on the design for hillside projects creates well designed buildings that will protect our hillsides and be in harmony with the community for many years to come and is supported by General Plan 2040:

General Plan Program CDP-1.3A: Hillside Residential Design Guidelines. Continue to implement hillside residential design guidelines through the design review process, as well as larger lot size requirements for hillside areas where there are access limitations or natural hazards. Update the design guidelines as needed.

Although the Design Review Board is an advisory board, for hillside projects requesting Exceptions to our Hillside Development standards (SRMC 14.12.040), the Design Review Board *must* make a recommendation for approval to the City Council, who is the deciding body. In order for the board to recommend approval, a quorum or 3 members of the full board must vote to recommend approval. DRAC is not structured to provide a recommendation of approval for Exceptions like the full board is.

Having a combined hearing with DRAC and the Planning Commission would be better suited for projects requiring minimal design review, perhaps conceptual reviews only. Hillside development can require more than one meeting to evaluate design solutions and so it would be inefficient to combine design review with the Planning Commission in the same meeting for hillside projects.

2. Recommended changes to the proposed DRAC Pilot Program, EXHIBIT 1, from the staff report to the Design Review Board on February 17, 2021:

These proposed modifications are to the DRAC Pilot Program, as presented to the DRB on February 17, 2021:

A. Purpose and Authority. The Design Review Advisory Committee (DRAC) shall serve as a subcommittee of the full Design Review Board established under San Rafael Municipal Code Section 14.25.070. The DRAC will operate for a temporary 1-year term and will be held to the same authority and duties outlined in SRMC 14.25.070(A).

The DRAC would apply to residential structures of 10 units or less in high density zoned areas such as the Downtown zoning districts; DRAC would apply to 4 units or less in residential neighborhoods.

Hillside development subject to the HILLSIDE DEVELOPMENT OVERLAY DISTRICT (SRMC 14.12) shall require design review by the full 5-member board.

The DRAC purpose is to provide professional design analysis, ~~and design guidance to the applicant on behalf of staff and may comment on~~ evaluation and judgment as to the completeness, competence and appropriateness of development proposals for their use and setting. The DRAC is not a formal body and does not take formal action on a project. However, the DRAC may provide recommendations to the zoning administrator, planning commission or city council based on design standards adopted by the city council.

B. Membership in the DRAC.

We think a 1-year rotation of DRAC members is too long and should rotate on the same schedule as the DRB liaison which is every 2 months. With fewer members in the DRAC, we think more frequent rotation would provide the greatest value for project review. 1 member could be rotated every 2 months, which would result in a cycle repeating after 10 months and would give each member a greater opportunity to participate. With annual rotation, it would require one member to serve in a 2-year cycle. Some members could go a full year without participating. The City may have difficulty filling empty seats on the Design Review Board given the infrequent rotation of the DRAC if adopting a 1-year rotation.

D. Meetings. All DRAC meetings shall be public-noticed with written comments and public participation encouraged and allowed. DRAC meetings shall be posted on the City’s Meetings and Agendas web page along with minutes and video.

E. Referral to the full DRB. If at any time,.....the project ~~may~~ shall be referred to the full DRB when:

- Requested by a member of the public.
- Referred by staff or board member.
- The project is controversial.
- The project is subject to the Hillside Development Overlay District (SRMC 14.12).

Additional Comments:

1. The pilot program needs more specificity about what projects are reviewed by DRAC.
2. The same Public notice and public participation procedures currently used for the full 5-member board shall be used for all DRAC meetings.
3. All DRAC meetings will be clearly identified on the City’s Meetings and Agendas web page.
4. Planning staff shall indicate on the “Project Referral / Transmittal” Sheet and on the project website whether the project will be reviewed by the Full 5-member Design Review Board or DRAC.
5. An information handout should clearly show with a flowchart or a list of criteria which types of projects will be reviewed by DRAC and which types of projects will be reviewed by the full 5-member board.
6. A clear plan of how members will be rotated on and off the DRAC shall be provided for public information.

3. DRB Subcommittee meetings during the Shelter-in-Place order (2020)

The Planning Department began using a DRB subcommittee instead of the full DRB in March, 2020, ahead of the policy statement issued by the City Manager, on April 1, 2020, that reduced the DRB to a subcommittee of 2 members who would meet via conference call without public notice or allowing public participation. This was never approved by the City Council. The Governor issued Executive Orders in March, 2020, authorizing public meetings be made accessible telephonically or otherwise electronically to all members of the public. Nevertheless, the Planning Department held DRB Subcommittee meetings without public notice and public participation for almost 7 months, until the Shelter-in-Place order ended on October 27, 2020, even though every other city board and commission had been meeting on ZOOM for several months.

We do not agree with staff that the DRB Subcommittee meetings “received substantial positive feedback from community members and applicants.” How could community members provide feedback when *the public had no knowledge that these meetings were occurring!* We question whether due process procedures were violated as a result of holding DRB Subcommittee meetings without public notice or public participation or City Council approval.

38 Upper Fremont was a controversial hillside project where the public was unaware that the DRB meeting had occurred and was later caught off-guard to hear that the DRB had met without any notice to the Neighborhood Association or the public. 43 Marinita was another hillside project where members of the public commented on design issues at the Zoning Administrator hearing but should

have raised design issues at the DRB meeting, except that the public wasn't notified and so was unaware and unable to raise design concerns at the proper point in the review process.

On September 8, 2020, planning staff informed the City Council that they had been using a DRB subcommittee but didn't inform the City Council that they were not notifying the public or allowing the public to participate in these meetings. Staff recommended the City Council adopt their DRAC proposal and amend the SRMC to eliminate public notice and public hearing requirements. The City Council did not recommend approval and instead provided direction to staff to include measures for public participation.

Even after receiving direction from the City Council to include public participation, planning staff continued to hold DRB subcommittee meetings without public notice or public participation through the month of October. One of those projects was 54 Marinita Ave, a hillside project mentioned previously. Another project was 52/54 Fremont, a controversial hillside project that required Exceptions to the Hillside development standards. The public was not notified of updated plans or the DRB Subcommittee meeting to review those plans and didn't learn about the meeting until several months later.

The 52/54 Fremont project included Exceptions to the Hillside Design standards and so needed a recommendation for approval to the City Council which requires a quorum, or 3 members. The DRB subcommittee (2 members) does not constitute a quorum. Nevertheless, the project went on to the Planning Commission. One commissioner commented that he was surprised the project made it through the DRB's review for compliance with the Hillside Design Guidelines. Members of the public were also surprised.

From the public's perspective, we would give the DRB subcommittee procedures put in place for almost 7 months, a failing grade and would not recommend adopting any process at all close to it.

Thank you for your serious consideration of our comments.

Sincerely,

Victoria DeWitt
Amy Likover
Joe Likover
Tom Heinz
Maren DeGraff
Peter Marks
Leslie Marks

cc: Mayor Kate Colin and City Council members