



**Planning Commission
Regular Meeting**

**Tuesday, September 13, 2022, 7:00 P.M.
AGENDA**

In-Person:

**San Rafael City Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901**

Participate Virtually:

**Watch on Webinar: <https://tinyurl.com/pc-2022-09-13>
Watch on YouTube: <http://www.youtube.com/cityofsanrafael>
Telephone: 1 (669) 444-9171
Meeting ID: 897 4566 6511#
One Tap Mobile: US: +16694449171,,89745666511#**

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 in-person, virtually using Zoom and is being streamed to YouTube at www.youtube.com/cityofsanrafael.

How to participate in the meeting in-person:

- Stay home if you are experiencing COVID-19 symptoms
- Face coverings are recommended for attendees
- Use the sign-in sheet (optional) which allows notification of potentially exposed individuals if contact tracing reveals COVID-19 transmission may have occurred in a given meeting
- Attendance will be limited to 50 percent of room capacity (no more than 90 persons) and all in-person attendees should socially distance as recommended by public health authorities. If the Chambers are 50% occupied, please participate online instead or utilize the audio feed in the lobby.
- All attendees are encouraged to be fully vaccinated.

How to participate in the meeting virtually:

- Submit public comment in writing before 4:00 p.m. the day of the meeting 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 August 9, 2022

Recommended Action – Approve minutes as submitted

ACTION ITEMS

2. 326 and 308 Mission Avenue

PLAN21-041, ZC20-001, UP20-022, ED 20-051

State Clearinghouse #2021110398

Notice of Availability of a Draft Environmental Impact Report (EIR) to assess impacts of the Aldersly Retirement Community Development Plan Amendment Project, 326 and 308 Mission Avenue APNs: 014-054-31 and -32; Planned Development (PD-1775) Zoning District; Applicant: Peter Lin, Greenbriar Development; Property Owner: Peter Schakow, Aldersly Retirement Community.

Project Planner: Jayni Allsep, Contract Planner, jayni.allsep@cityofsanrafael.org

Recommended Action – Receive and provide comment on the analysis contained in the Draft EIR.

3. Text Amendments for Streetaries Ordinance

ZO22-004

Proposed edits to the Zoning Ordinance and Downtown Precise Plan to conform with the proposed adoption of an ordinance of the City of San Rafael adding Chapter 11.70 ("STREETARIES" OUTDOOR EATING AREAS) to Title 11 (PUBLIC WORKS) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (SITE USE AND REGULATIONS), Section 14.17.110 of Chapter 14.17 (PERFORMANCE STANDARDS), Section 14.05.020 of Chapter 14.05 (COMMERCIAL AND OFFICE DISTRICTS), Section 14.06.020 of Chapter 14.06 (INDUSTRIAL DISTRICTS) and Section 14.08.020 of Chapter 14.08 (MARINE DISTRICT) of Title 14 (ZONING) of the San Rafael Municipal Code; and amending Table 2.3.070.A (USE TABLE) of Chapter 9 (DOWNTOWN FORM-BASED CODE) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way.

Project Planner: Leslie Mendez, Planning Manager,

leslie.mendez@cityofsanrafael.org

Recommended Action – Adopt a resolution recommending the City Council adopt the proposed ordinance and related text amendments.

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, August 9, 2022, 7:00 P.M.
MINUTES**

In-Person:

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CALL TO ORDER

Chair Previtali called meeting to order at 7:03 PM. He then invited Planning Manager Leslie Mendez to call roll.

RECORDING OF MEMBERS PRESENT AND ABSENT

PRESENT: CAMILLE HARRIS, COMMISSIONER (In-person)
JON HAVEMAN, COMMISSIONER (In-person)
ALDO MERCADO, COMMISSIONER (Virtually)
SAMINA SAUDE, VICE-CHAIR (In-person)
JON PREVITALI, CHAIR (In-person)

ABSENT SHINGAI SAMUDZI, COMMISSIONER
KELLY SHALK, COMMISSIONER

ALSO PRESENT: LESLIE MENDEZ, PLANNING MANAGER (In-person)
JEFF BALLANTINE, SENIOR PLANNER (In-person)

APPROVAL OR REVISION OF ORDER OF AGENDA ITEMS

No changes were made to the order of the agenda.

PUBLIC NOTIFICATION OF MEETING PROCEDURES

Chair Previtali invited Planning Manager Leslie Mendez, who informed the community the meeting is being streamed live to YouTube and members of the public could provide public comment either on the telephone, through Zoom, or in person. She explained the process for community participation in-person, on the telephone and Zoom.

ORAL COMMUNICATIONS FROM THE PUBLIC

There was no communication from the public.

CONSENT CALENDAR

1. Approval of the Planning Commission Meeting Minutes of July 26, 2022

Chair Previtali invited public comment and there was none.

Vice-Chair Saude moved, and Commissioner Harris seconded to approve the Consent Calendar.

Chair Previtali then invited Planning Manager Leslie Mendez to take roll:

AYES: Commissioners Harris, Haveman, Mercado, Vice-Chair Saude, and Chair Previtali

NOES: None

ABSENT: Commissioners Samudzi & Shalk

ABSTAIN: None

Motion carried 5 – 0

ACTION ITEMS

2. 800 & 804 A Street (Ritter Center) PLAN22-026, UP22-003, ED22-009

Request for a Use Permit and an Environmental and Design Review Permit for a Major Medical Facility within an existing building at 800 A Street and to demolish an existing building at 804 A Street in order to expand the parking lot; APNs: 011-264-10 & -06; T5N District; Scott Peterson of INDE Architecture, Applicant; Ritter Center, Owner. Project Planner: Jeff Ballantine, Senior Planner, Jeff.Ballantine@cityofsanrafael.org

Chair Previtali invited Staff to present the project. Project Planner, Jeff Ballantine, presented the Staff Report.

Applicant team, Mark Shotwell, Ritter Center, Paul Coen, PMCohen Public Affairs, and Scott Peterson, Architect, gave a brief presentation.

Chair Previtali asked for questions from the Planning Commission. Staff and Applicant team responded.

Chair Previtali opened public hearing and asked Staff to open public comment. Planning Manager reviewed the procedures on public comment.

Seven public comments provided in support of Application. One public comment provided in support but with clarifying questions.

There being no further public commentary, Chair Previtali closed the public hearing portion and requested responses from Staff and Applicant team to the questions raised in public comment, and for final questions from Commission. Staff & Applicant team addressed questions raised by public comment and Commission.

Chair Previtali asked, in turn, for final comments or questions from Commissioners. There being no further questions or comments, Chair Previtali called for a motion.

Commissioner Mercado moved to approve the Application in front of them, and Commissioner Haveman seconded and offered a final comment on the project.

Chair Previtali invited Planning Manager Leslie Mendez to take roll:

AYES: Commissioners Harris, Haveman, Mercado, Vice-Chair Saude, and Chair Previtali

NOES: None

ABSENT: Commissioners Samudzi & Shalk

ABSTAIN: None

Motion carried 5 – 0

DIRECTOR'S REPORT

Planning Manager reported on the following items:

- Update on Planning Commission reappointments.

- Notice of cancellation of next Planning Commission regular meeting on August 23, 2022.
- Notice and reminder of next/second Housing Element Workshop, community meeting on August 16, 2022.
- Update on projects coming to the Planning Commission.

COMMISSION COMMUNICATION

Commissioner Mercado asked about his virtual appearance. Staff and Commission confirmed that first hybrid meeting of the Planning Commission was a success and a pleasure.

ADJOURNMENT

There being no further business, Chair Previtali adjourned the meeting at 8:06 PM.

LESLIE MENDEZ, Planning Manager

APPROVED THIS ____ DAY OF _____, 2022

JON PREVITALI, Chair



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: September 13, 2022
Agenda Item: 2
Case Numbers: PLAN21-041,
ZC20-001, UP20-022,
ED 20-051
State Clearinghouse
#2021110398
**Project
Planner:** Jayni Allsep
(415) 706-0443

REPORT TO PLANNING COMMISSION

SUBJECT: Notice of Availability of a Draft Environmental Impact Report (EIR) to assess impacts of the Aldersly Retirement Community Development Plan Amendment Project, **326 and 308 Mission Avenue** APNs: 014-054-31 and -32; Planned Development (PD-1775) Zoning District; Applicant: Peter Lin, Greenbriar Development; Property Owner: Peter Schakow, Aldersly Retirement Community.

EXECUTIVE SUMMARY

The City is the lead agency responsible for California Environmental Quality Act (CEQA) environmental review of the proposed Aldersly Retirement Community Development Plan Amendment Project (Proposed Project). CEQA requires the preparation of an environmental impact report (EIR) when a project could significantly affect the physical environment. During the initial review of the project application, staff determined that the proposed demolition of existing buildings had the potential to cause a significant environmental impact on historic resources, and that preparation of an EIR was required.

The Draft EIR analyzes a proposed amendment to the Aldersly Planned Development that includes demolition and renovation of existing buildings, and construction of three new buildings, new landscaping, pathways, exterior lighting, and on-site parking on the 2.88-acre Aldersly Campus. The Proposed Project would result in 14 additional independent living units, an increase from 55 units to 69 units. The number of assisted living/memory care beds (35 beds) and skilled nursing beds (20 beds) would remain unchanged. In addition to the Proposed Project, the Draft EIR analyzes an On-Site Project Alternative and an Off-Site Project Alternative. As required by CEQA, the Draft EIR also analyzes a No-Project Alternative.

The Proposed Project would result in a significant and unavoidable impact related to the proposed demolition of existing buildings on the project site. The proposed demolition of buildings would cause a significant adverse change that would result in the loss of California Register eligibility of the Aldersly Retirement Community as a historic district, and therefore the impact on the historic district would be significant and unavoidable. Significant impacts related to air quality, biological resources, cultural and tribal cultural resources, geology, and noise would be reduced to less-than-significant levels after implementation of mitigation measures.

RECOMMENDATION

It is recommended that the Planning Commission take the following action:

1. Receive public comment on the analysis contained in the Draft EIR, and
2. Commissioners provide comment on the analysis contained in the Draft EIR

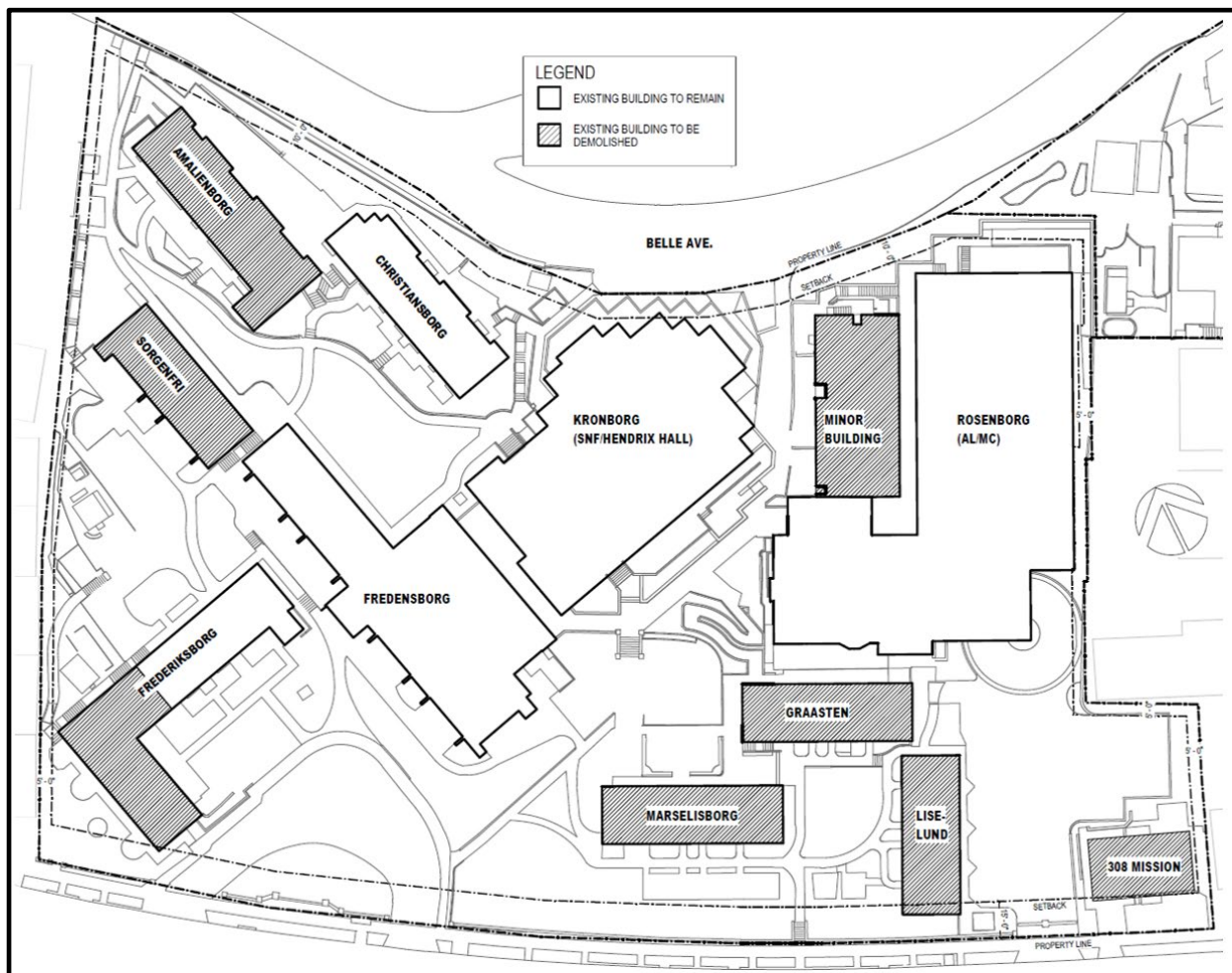
BACKGROUND

Site Description/Setting:

The Aldersly Retirement Community occupies 2.9 acres on the north side of Mission Avenue and extending to Belle Avenue to the north. The property slopes uphill from Mission Avenue frontage (13-16 ft. elevation) to Belle Avenue (40-60 ft. elevation). The campus is developed with residential, administrative, and healthcare buildings connected by an extensive network of landscaped pedestrian paths and gardens and on-site parking.

The campus is located within the Montecito/Happy Valley Neighborhood, one of San Rafael’s oldest neighborhoods. The area surrounding the Aldersly campus contains a mix of residential, retail, and community services. The site has a General Plan Land Use designation as High Density Residential and is zoned PD - Planned Development (Ordinance No. 1775). The Aldersly campus is located just north of the Montecito Commercial Sub-Area of the Downtown Precise Plan Area.

Founded in 1921 as a retirement community for Danish immigrants, Aldersly has been transformed numerous times over its 100 years to meet the changing needs of residents and to incorporate new concepts of community care. None of the original buildings of the Aldersly campus remain, and the existing buildings on the campus represent a variety of styles reflecting the four periods of redevelopment in the 1940s, 1960s, 1990s and early 2000s. The most recent major development on the campus is the 30-unit assisted living facility and attached parking garage (Rosenberg), completed in 2004.



PROJECT DESCRIPTION

The Aldersly Retirement Community and Greenbriar Development have filed applications for a project that proposes phased improvements over the next ten years on the Aldersly Campus. The project includes demolition and renovation of existing buildings, and construction of new buildings on the Campus. Project applications include the following:

- A zoning amendment to amend the previously approved Planned Development (PD) Ordinance No. 1775, including revised Aldersly PD Development Standards (ZC20-001);
- An amendment to a master use permit (UP20-022); and
- An environmental and design review permit (ED20-051)

At buildout of the proposed Development Plan in approximate ten years (2031), the project would result in a new four-story Independent Living (IL) building along Mission Avenue, a new Independent Living building on the western portion of the site, a new service building along Belle Avenue, three renovated/reconfigured buildings, and new outdoor spaces including a memory care garden, activity lawn, and rose terrace. The project, which includes demolition of seven existing buildings, construction of three new buildings, and additions/renovations to four existing buildings, would result in fourteen (14) additional independent living units, an increase from 55 units to 69 units. The number of Assisted Living/Memory Care beds (35 beds) and Skilled Nursing beds (20 beds) would remain unchanged. The number of on-site parking spaces would increase from 48 to 56 spaces at buildout of the Aldersly Development Plan.

OVERVIEW OF CEQA PROCESS AND DRAFT EIR

The City is the lead agency responsible for California Environmental Quality Act (CEQA) environmental review of projects undertaken in the City. CEQA requires the preparation of an environmental impact report (EIR) when a project could significantly affect the physical environment. During the initial review of the project, staff determined that the project had the potential to cause a significant environmental impact on historic resources and that preparation of an EIR was required.

A Notice of Preparation (NOP), including a Draft Initial Study was published on November 22, 2021, to announce the commencement of the EIR process and to solicit comments concerning the scope of issues to be addressed in the EIR. The Draft Initial Study concluded that all significant impacts could be mitigated to a less than significant level except for impacts on historic resources; and mitigation measures were identified that would reduce all other significant impacts to a less than significant level.

On December 14, 2021, the City held a scoping meeting to receive comments on the scope of the EIR during a regularly scheduled meeting of the San Rafael Planning Commission. The NOP and comment letters received during the 30-day NOP comment period are included in Appendix A of the Draft EIR.

The Draft EIR has been prepared in accordance with the CEQA Guidelines and was released for the 45-day review period required by CEQA (August 16 to September 30, 2022). In an effort to encourage public participation and to solicit comments from the public on the analysis contained in the Draft EIR, the City is conducting a meeting before the Planning Commission during the 45-day comment period to provide information about the potential physical effects of implementing the Project. While the submittal of written comments is encouraged, the meeting before the Planning Commission provides an opportunity for the public and the Planning Commission to orally comment on the Draft EIR as well.

The key conclusions of the Draft EIR are presented below:

Significant Environmental Impacts

Chapter 3 of the Draft EIR provides the analysis conducted in this EIR and focuses on the Project's impact on Cultural (Historic) Resources. For clarity, the topic of Tribal Cultural Resources (TCRs) is also

addressed in Chapter 3 because mitigation measures identified for TCRs refer to and are closely related to mitigation measures identified for Cultural Resources.

The Draft EIR concludes that the proposed project would result in a “Less than Significant Impact with Mitigation Incorporated” in the following topic areas.

- Air Quality
- Biological Resources
- Geology and Soils
- Noise
- Cultural Resources (except Historic Resources, discussed below) and Tribal Cultural Resources

The Draft EIR identifies the following environmental effects that would be reduced to a less than significant level with implementation of mitigation measures identified in the Draft EIR:

- **Impact AQ-1.** The Project could result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is non-attainment under an applicable federal or state ambient air quality standard. (Less than Significant with Mitigation)
- **Impact AQ-2.** The Project could expose sensitive receptors to substantial pollutant concentrations. (Less than Significant with Mitigation)
- **Impact BIO-1.** The Project has the potential to disturb active bird nests on the Project site. (Less than Significant with Mitigation)
- **Impact CUL-2:** Implementation of the Proposed Project has the potential to cause a significant impact to a previously unidentified archaeological resource pursuant to CEQA Guidelines Section 15064.5. (Less than Significant with Mitigation)
- **Impact CUL-3:** Ground-disturbing activities during Project construction could encounter human remains, the disturbance of which could result in a significant impact under CEQA. (Less than Significant with Mitigation)
- **Impact TCR-1:** Ground-disturbing activities during Project construction could encounter Tribal Cultural Resources, the disturbance of which could result in a significant impact under CEQA. (Less than Significant with Mitigation)
- **Impact GEO-1.** The Project site is subject to earthquakes that have the potential to induce strong to very strong ground shaking. Strong shaking during an earthquake can result in ground failure such as that associated with soil liquefaction, lateral spreading, cyclic densification, and landsliding. (Less than Significant with Mitigation)
- **Impact GEO-2.** The Project has the potential to destroy a unique paleontological resource during construction and earthmoving activities. (Less than Significant with Mitigation)
- **Impact NOI-1. Construction Noise Impacts.** Noise generated by construction activities, including demolition, could exceed the 90 dBA L_{eq} noise level established in SRMC Section 8.13.050. (Less than Significant with Mitigation)
- **Impact NOI-2. Operational Noise Impacts.** Noise associated with new HVAC equipment could increase ambient noise levels. (Less than Significant with Mitigation)

Table S-1 of the Draft EIR identifies each significant environmental impact and mitigation measures that would reduce the impact to a less than significant level. The Project would have no impact or a less than significant impact (no mitigation required) on all other resource areas identified in the CEQA Guidelines. These topics and resource areas are addressed in Appendix B of the Draft EIR and are not discussed in detail in Chapter 3.

Significant and Unavoidable Environmental Impact

As discussed in Chapter 3 of the Draft EIR, the Proposed Project would have an impact on a historic resource that would be significant and unavoidable:

- **IMPACT CUL-1:** The Proposed Project would result in the demolition of six of the nine contributing buildings and landscape features that are contributing features of an eligible historic district. (Significant and Unavoidable)

According to CEQA, a “project with an effect that may cause a substantial adverse change in the significance of an historic resource is a project that may have a significant effect on the environment.” Substantial adverse change is defined as: “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historic resource would be materially impaired. The significance of a historical resource is materially impaired when a project “demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance” and that justify or account for its inclusion in, or eligibility for inclusion in a local register of historical resources pursuant to local ordinance or resolution. Thus, a project may cause a change in a historic resource but still not have a significant adverse effect on the environment as defined by CEQA as long as the impact of the change on the historic resource is determined to be less-than-significant, negligible, neutral or even beneficial.

The Aldersly Retirement Community campus was evaluated in 2017 by Page & Turnbull and determined to be eligible for listing as a historic district in the California Register of Historical Resources (California Register). Historic Districts are a concentration of historic buildings, structures, objects, or sites within precise boundaries that share a common historical, cultural or architectural background. Individual resources within an historic district may lack individual significance but be considered a contributor to the significance of the historic district.

The Aldersly campus is eligible as a historic district under Criterion 1 (Event) for its history as a unique cultural institution for the Northern California Danish-American community, and under Criterion 3 (Architecture) for its cohesive collection of Second Bay Tradition buildings as envisioned by a 1961 master plan by Rex Whitaker Allen & Associates, and its integration of landscape and built resources that reflects both Second Bay Tradition design and the ideals of Aldersly – which means “a shade for old age” – as a comfortable retreat for its residents.

As discussed in Chapter 3 of the Draft EIR, the Proposed Project would demolish six contributing buildings, partially demolish one contributing building, and alter an additional contributing building, leaving only one contributing building intact. In addition, the construction of three new buildings would require the removal and relocation of some landscape features – including the Rose Garden and fountain – and would infill some of the green space of the existing campus, including a corner of the central lawn. All landscape features of the Aldersly campus that are contributing features of the eligible historic district would be altered by the proposed project in some way, either through relocation, removal, or alteration.

Due to the proposed demolition of most contributing buildings and the alteration and relocation of most landscape features as part of the Project, the eligible historic district would lose its historic integrity and ability to convey its significance. These alterations would cause a significant adverse change that would result in the loss of California Register eligibility of the Aldersly Retirement Community as a historic district. Because the demolition of contributing buildings and changes to landscape features would lead to a loss of California Register eligibility of the Aldersly campus as a historic district, the compatibility or incompatibility of proposed new construction and alterations proposed for the remaining buildings would be irrelevant. Therefore, the impact on the eligible historic district would be significant and unavoidable because there is no feasible mitigation that would reduce impacts to the eligible historic district to less than significant. Alternatives to the Proposed Project that could reduce Project impacts are addressed in Chapter 5 of the Draft EIR and are summarized below.

Project Alternatives

As required under CEQA, the Draft EIR describes and evaluates a reasonable range of alternatives to the project that would feasibly attain most of the project’s basic objectives and would avoid or substantially

lessen any identified significant adverse environmental effects of the project. Alternatives to the proposed project are addressed in Chapter 5 of the Draft EIR and an overview of the chapter is provided below.

Alternative 1: No Project Alternative

As required by CEQA, the Draft EIR analyzes a No-Project Alternative. The No Project Alternative assumes that the Aldersly campus would remain in its existing condition and would not be subject to redevelopment. Under this alternative, the Aldersly campus would continue to operate as it currently exists, and no new construction would occur on the Project site except for repairs and interior renovation of existing buildings. The number of independent living units, assisted living/memory care beds, and skilled nursing beds are assumed to remain the same as existing (55 Independent Living units, 35 Assisted Living/Memory Care beds and 20 Skilled Nursing beds). Under the No Project Alternative, the character-defining features of the eligible historic district would remain intact, and no significant environmental impacts would occur.

Alternative 2: On-Site Preservation Alternative

Alternative 2 would concentrate all new development of the Aldersly campus at its southern edge along Mission Avenue with the construction of two new buildings. This Alternative includes the construction of a new Independent Living building along Mission Avenue, and the complete demolition and replacement of the Frederiksborg building at the southwest corner of the Project site. Like the Proposed Project, this Alternative would also require the demolition of the building at 308 Mission Avenue to make room for a new driveway and parking. The property at 308 Mission Avenue is part of the approved PD Development Plan Area and is owned by Aldersly. Because the scale of the overall construction activities would be reduced, all significant impacts of the Project would be reduced to less than significant with mitigation incorporated, except for impacts on historic resources. With regard to historic resources, although Alternative 2 would retain more contributing buildings and landscape features than the proposed Project, and it would retain the spatial characteristics of the historic entrance to Aldersly with its entry gate and circular drive, Alternative 2 would require the demolition of five of the nine contributing buildings and the demolition of and alteration to most landscape features as part of the Project, and would cause a significant adverse change that would result in the loss of California Register eligibility of the Aldersly Retirement Community as a historic district. Therefore, the impact on the eligible historic district would be significant and unavoidable under Alternative 2.

Alternative 3: Off-Site Preservation Alternative

Alternative 3 would locate all new development at the eastern end of the Aldersly campus and would incorporate two parcels currently owned by Aldersly (121 and 123 Union Street) located just east of the northeast corner of the existing campus. Alternative 3 would retain nearly all of the historic buildings and landscape elements that contribute to the eligible Aldersly historic district and define its historic significance. Since the contributing buildings and structures would be nearly entirely retained, and the historic district would remain eligible for the California Register, Alternative 3 would have a less than significant impact to the historic resource under CEQA. Other environmental impacts would be similar to that of Alternative 2 and the Proposed Project. Alternative 3 would meet some--but not all--of the project sponsor's objectives, and it would meet fewer of the project objectives compared to the Proposed Project and Alternative 2. Alternative 3 would add a second dining venue and gathering spaces, and it would provide an accessible outdoor garden area for the Memory Care Center as desired; however, it would not provide as many updated or larger Independent Living units, nor would it provide additional parking or improve site accessibility and access to campus amenities to the extent that the Proposed Project would achieve.

Environmentally Superior Alternative

CEQA requires the identification of an environmentally superior alternative to the Proposed Project. The Draft EIR concludes that Alternative 1, the No Project Alternative, is the environmentally superior alternative to the Proposed Project because it would avoid all of the significant impacts associated with the Proposed Project. If it is determined that the "no project" alternative would be the environmentally superior

alternative, then the EIR must also identify an environmentally superior alternative among the other project alternatives.

Alternative 3, which proposes to retain nearly all of the contributing buildings and landscape features, would result in a less than significant impact to the eligible Aldersly historic district, and the district would remain eligible for the California Register. However, as noted above, Alternative 3 would meet fewer of the project sponsor's objectives. In conclusion, the Draft EIR finds that Alternative 3 would not cause any material impairment to the historic resource under CEQA, and that Alternative 2, like the Proposed Project, would cause a material impairment to the Aldersly historic district.

NEXT STEPS

Following the 45-day public review period for the DEIR, all written comments received on the adequacy of this Draft EIR will be addressed in a "response-to-comments" document that, together with the Draft EIR, will constitute the Final EIR. The response-to-comments document will also present any changes to the Draft EIR resulting from public and agency input, as well as changes initiated by City staff.

Before any decision to approve, revise, or reject the Proposed Project, the Final EIR will be considered by the Planning Commission and the City Council at noticed public hearings. This project requires an amendment to the approved PD Development Plan (Zoning Amendment) which requires action by the City Council. Therefore, the Planning Commission action on the EIR and project applications will be a recommendation to the City Council. At the time the Project approval actions are considered, the Planning Commission and City Council will also consider written findings for each significant environmental effect identified in the EIR, and a mitigation monitoring and reporting program (MMRP) for adopted mitigation measures.

PUBLIC OUTREACH

A Notice of Availability (NOA) of the Draft Environmental Impact Report and Notice of Public Meeting was published in the *Marin Independent Journal* on August 16, 2022, and the notice was also sent to property owners and occupants located within 300 feet of the project site, and to anyone who previously requested to be notified about the project. In addition, notices were posted on the project site along Mission Avenue and Belle Avenue 15 days before the public hearing.

It is also noted that since the project applications were filed with the City, the following neighborhood outreach has occurred:

- Neighborhood meeting hosted by Aldersly held via Zoom on June 9, 2021
- Montecito Area Residents Association (MARA) - special meeting held via Zoom on January 27, 2022
- MARA special meeting held via Zoom on May 16, 2022

As of the date and publication of this staff report, the City has not received any comments on the Draft EIR.

EXHIBITS

1. [Notice of Availability and Draft EIR](#) for Aldersly Retirement Community Development Plan Amendment Project, August 2022
2. Plans, Documents and studies provided on Aldersly webpage: <https://www.cityofsanrafael.org/aldersly/>
3. Public Comment

Leslie Mendez

From: Jayni Allsep
Sent: Wednesday, August 31, 2022 10:09 AM
To: J. F.; Planning Public Comment
Subject: Re: Aldersly 326 Mission EIR Draft

Hello Ms. [REDACTED],

Thank you for your email and your excellent suggestion. I've suggested that Aldersly have a printed copy of the Draft EIR available for residents to review. I'll follow up to make sure that happens.

Regards,

Jayni Allsep / City of San Rafael

Planning Consultant
1400 5th Avenue
San Rafael, CA 94901
(415) 706-0443



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From: J. F. [REDACTED]@gmail.com>
Sent: Wednesday, August 31, 2022 9:53 AM
To: Planning Public Comment <PlanningPublicComment@cityofsanrafael.org>; Jayni Allsep <Jayni.Allsep@cityofsanrafael.org>
Subject: Aldersly 326 Mission EIR Draft

Hello, Ms Allsep and Planning,

I have read the Draft EIR for the project at Aldersly. I would like to share it with several current residents of Aldersly. Is it possible to have a printed copy available to take to Aldersly? Many residents are more comfortable with print material, and I also lack the capacity to print a copy.

Thank you for your attention to this request.

Sincerely,

Julie [REDACTED]



SAN RAFAEL
THE CITY WITH A MISSION

Community Development Department – Planning Division

Meeting Date: September 13, 2022
Agenda Item: 3
Case Number: ZO22-004
Project Planner: Leslie Mendez
(415) 485-3095

REPORT TO PLANNING COMMISSION

SUBJECT: Proposed edits to the Zoning Ordinance and Downtown Precise Plan to conform with the proposed adoption of an ordinance of the City of San Rafael adding Chapter 11.70 (“STREETARIES” OUTDOOR EATING AREAS) to Title 11 (PUBLIC WORKS) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (SITE USE AND REGULATIONS), Section 14.17.110 of Chapter 14.17 (PERFORMANCE STANDARDS), Section 14.05.020 of Chapter 14.05 (COMMERCIAL AND OFFICE DISTRICTS), Section 14.06.020 of Chapter 14.06 (INDUSTRIAL DISTRICTS) and Section 14.08.020 of Chapter 14.08 (MARINE DISTRICT) of Title 14 (ZONING) of the San Rafael Municipal Code; and amending Table 2.3.070.A (USE TABLE) of Chapter 9 (DOWNTOWN FORM-BASED CODE) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way; File No.: ZO22-004

EXECUTIVE SUMMARY

At the September 19, 2022 City Council meeting, Public Works staff will recommend adoption of an ordinance to add a new chapter to Title 11 (Public Works) governing “streetaries” outdoor eating areas located in parking spaces in the public right-of-way. The ordinance, if adopted, would govern streetaries through encroachment permits issued by the Director of Public Works. Adoption of the ordinance requires conforming text amendments to Title 14 (Zoning) and the Downtown Precise Plan within the purview of the Planning Commission. The text amendments would carve out regulation for on-street dining of streetaries, which are currently covered under Title 14, and refer to the new Chapter 11.70. All existing streetaries, including those permitted before and during the COVID-19 emergency authorization, would be subject to the new ordinance. Staff believes that the new ordinance and proposed zoning text amendments and amendments to the Downtown Precise Plan are consistent with General Plan 2040 Goal EV-1: A Healthy and Resilient Economy because the program would streamline the permitting process, strengthen public safety standards, create a consistent design aesthetic, and ensure equity in the use of the public right of way. The public health, safety, and general welfare would be served because it would require applicants to procure a streetary encroachment permit to be approved by the Department of Public Works to ensure that the proposal is in accordance with State and local regulations.

RECOMMENDATION

It is recommended that the Planning Commission take the following action:

- Adopt a resolution recommending the City Council adopt the proposed ordinance of the City of San Rafael adding Chapter 11.70 (“STREETARIES” OUTDOOR EATING AREAS) to Title 11 (PUBLIC WORKS) of the San Rafael Municipal Code; amending Section 14.16.277 of Chapter 14.16 (SITE USE AND REGULATIONS), Section 14.17.110 of Chapter 14.17 (PERFORMANCE STANDARDS), Section 14.05.020 of Chapter 14.05 (COMMERCIAL AND OFFICE DISTRICTS), Section 14.06.020 of Chapter 14.06 (INDUSTRIAL DISTRICTS) and Section 14.08.020 of Chapter 14.08 (MARINE

DISTRICT) of Title 14 (ZONING) of the San Rafael Municipal Code; and amending Table 2.3.070.A (USE TABLE) of Chapter 9 (DOWNTOWN FORM-BASED CODE) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way

BACKGROUND

Outdoor dining in City sidewalks and the public right of way was authorized by the City Council in April 2000, through adoption of [Ordinance 1751](#), codified at SRMC Section [14.16.277](#), *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*. This ordinance allows the Community Development Director to license outdoor dining in sidewalks and other rights of way subject to certain conditions and subject to performance standards under [Section 14.17.110\(C\)](#), *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*.

On August 17, 2015, the City Council adopted [Resolution 13995](#), establishing a 3-year pilot program to expand the Outdoor Dining Program to include parklets in the streets, which provided a process for businesses to use parking spaces for outdoor dining purposes. On December 3, 2018, the City Council authorized the on-street dining to continue under the same limitations. Prior to the COVID-19 pandemic, three businesses received approval to operate outdoor dining parklets in parking spaces.

To help local businesses during the COVID-19 emergency, on June 1, 2020, the City Council adopted [Resolution 14809](#) authorizing the City Manager, at his discretion, to streamline the approval of permits or other entitlements for use of City sidewalks and on-street parking spaces for business activities of restaurants and retail businesses, waive or reduce application fees, and close portions of designated City streets up to two evenings per week in order to facilitate outdoor dining during and allow dining establishments to continue to operate when indoor dining was not allowed during the Covid-19 emergency. An additional twenty-nine merchants utilized the temporary program, thereby maintaining economic stability during challenging COVID-19 pandemic restrictions.

Temporary Outdoor Dining Program encroachment permits approved under the COVID-19 emergency streamlined process are valid through November 30, 2022. Staff were tasked with creating a program beginning December 1, 2022, for the continuance of the Outdoor Dining Program that sets clear and fair rules, parameters, and processes to ensure a positive impact on the City's economic vitality.

On June 21, 2022, staff presented the Draft Streetary Program Guidelines to the City Council, setting forth staff's recommendations for design and development standards, operational standards, fees, and other related requirements for new streetary encroachment permits that would apply after current permits expire on November 30, 2022. Staff recommended that the program be managed and permitted by the Director of Public Works due to the location of streetaries in streets and parking spaces of the public right-of-way. The City Council concurred with the presented draft design guidelines. The City Council expressed interest to offer merchants an incentive to remove unused installations by absorbing the cost of removal, if removed by December 1, 2022. In addition, and as an added incentive to promote and improve Streetaries, the City Council supported a proposal to waive application fees through December 31, 2023 and discount the annual permit fee for the first year by 50% (between December 1, 2022 until December 31, 2023) and discount the annual permit fee for the second year by 25% (between January 1, 2024 until December 31, 2024).

Summary of Proposed Ordinance

Following is a summary of the ordinance.

- 1) Adds Chapter 11.70 “Streetaries” Outdoor Eating Areas, to the SRMC, including but not limited to the following provisions – see Attachment A to the Resolution:

<p>Permit required (§ 11.70.020)</p>	<p>Requires a streetary encroachment permit issued by the Director of Public Works (“director”)</p> <p>Permit issued to applicant with a valid business license to operate adjacent food service establishment</p>
<p>Permit application (§ 11.70.030)</p>	<p>Director will transmit all applications to the Director of Community Development (“planning director”) for review for compliance with design and development standards</p>
<p>Fees (§ 11.70.040)</p>	<p>Application fee, annual encroachment lease fee, and one-time refundable deposit</p> <p>Amounts to be determined by separate resolution of the Council</p>
<p>Where permitted/locations (§ 11.70.050)</p>	<p>Permits streetaries in parking spaces</p> <p>Does not permit streetaries on streets with peak hour parking restrictions or speed limits greater than 25 mph</p> <p>Does not permit streetaries in certain restricted parking spaces – e.g., ADA designated, blocking utility access, obstructing bicycle facilities</p>
<p>Location criteria (§ 11.70.060)</p>	<p>Requires minimum parking availability – i.e., 70% of on-street parking must remain available for vehicles</p> <p>Streetaries must be adjacent to storefront, setback from travel lane and sides, and not block utility access</p>
<p>Design and development standards (§ 11.70.070)</p>	<p>City Council may adopt design and development standards* regulating the form, design, safety and maintenance of streetaries</p> <p>Authorizes the director to make minor modifications to the standards</p> <p>* Streetary Guidelines are intended to serve as the design and development standards. Will be proposed for adoption at the October 3, 2022 City Council meeting.</p>
<p>Criteria for permit issuance (§ 11.70.080)</p>	<p>Director must find that proposed use is i) in compliance with ordinance; ii) will ensure protection of public health, safety and general welfare and prevent interference with users of the right-of-way and other permit holders; and ii) will comply with development standards</p> <p>The director may make exceptions or minor modifications to the standards where the director determines that (1) a strict</p>

	application of standards cannot be met, and (2) the streetary, as proposed, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons or injurious to property and improvements in the neighborhood
Operational standards (§ 11.70.100)	Sets operational standards on live entertainment or amplified music, outdoor food preparation, alcohol service, noise and disruptive behavior, site maintenance, ADA compliance, hours of operation, insufficient usage
Enforcement (§ 11.70.120)	Violation of ordinance is a misdemeanor and all other remedies available to City Director may revoke permit for non-compliance or to protect public interest, health, safety and/or welfare of community
Appeal (§ 11.70.130)	Provides permittee right of appeal to City manager upon director's action on permit application or revocation

2) Conforming text amendments to Title 14 (Zoning).

Provisions of Title 14 (Zoning) are amended to conform with the new Chapter 11.70 governing streetaries. All provisions in this title that previously governed outdoor eating areas in the streets or parking spaces have been deleted and reference to the new Chapter 11.70 added. Permitting authority of streetaries has been moved from the Director of Community Development to the Director of Public Works because of their locations in the streets and parking spaces of the right-of-way. However, as identified above, under the new §11.70.030, the Director of Community Development will review all permit applications for compliance with design and development standards.

Note that permitting of outdoor eating areas within sidewalk locations have been retained in Title 14. At this time, staff is not recommending changes to the ordinance permitting sidewalk eating areas under authority of the Director of Community Development.

The following sections have text amendments – see Attachment B to the Resolution:

Section 14.16.277 of Chapter 14.16 (SITE USE AND REGULATIONS)

Section 14.16.277 (“Use of city sidewalks and rights-of-way for outdoor eating areas”) of Chapter 14.16 (“Site and Use Regulations”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code.

Section 14.17.110 of Chapter 14.17 (PERFORMANCE STANDARDS)

Subsection B (“Applicability”) of Section 14.17.110 (“Outdoor eating areas proposed in conjunction with food service establishments”) of Chapter 14.17 (“Performance Standards”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code.

Section 14.05.020 of Chapter 14.05 (COMMERCIAL AND OFFICE DISTRICTS)

Table 14.05.020 of Section 14.05.020 (“Land Use Regulations (GC, NC, O, C/O, R/O, FBWC)”) of Chapter 14.05 (“Commercial and Office Districts”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code.

Section 14.06.020 of Chapter 14.06 (INDUSTRIAL DISTRICTS)

Table 14.06.020 of Section 14.06.020 (“Land Use Regulations (I, LI/O, CCI/O, LMU)”) of Chapter 14.06 (“Industrial Districts (I, LI/O, CCI/O, LMU)”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code.

Section 14.08.020 of Chapter 14.08 (MARINE DISTRICT)

Table 14.08.020 of Section 14.08.020 (“Land Use Regulations (M)”) of Chapter 14.08 (“Marine District”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code.

3) Conforming text amendment to Chapter 9 of the Downtown Precise Plan.

Table 2.3.070.A of the Downtown San Rafael Precise Plan is also amended to conform with the new Chapter 11.70 governing streetaries – see Attachment B to the Resolution.

Table 2.3.070.A (USE TABLE) of Chapter 9 (DOWNTOWN FORM-BASED CODE)

Footnote 17 of Table 2.3.070.A (“Use Table”) of Article 2 (“Downtown Form-Based Zones”) of Chapter 9 (“Downtown Form-Based Code”) of the August 2021, Downtown San Rafael Precise Plan.

ANALYSIS

The goal of the proposed Ordinance is to maintain the economic vitalization gained by the existing streetaries by strengthening safety standards, creating consistent design aesthetic, and ensuring fairness in the way that the public right of way is being used.

The proposed Ordinance was carefully crafted through a collaborative team effort between Public Works, Community Development Department, Parking Services, City Attorney, Economic Development Department, Fire & Police Departments, and the City Manager’s Office. The proposed Ordinance authority would be congruent with other encroachment permits in the public right-of-way where the Director of Public Works is the established authority.

There are 32 food service establishments with existing streetaries in San Rafael. Most of these streetaries were established through encroachment permits issued by Public Works under the emergency program with self-certification requirements. It was meant to be more flexible in nature to accommodate the challenges facing food service establishments during the COVID-19 Pandemic. The adjustments needed to bring these streetaries in compliance with the new design guidelines will require time and careful handling of a still marginal and recovering food service industry.

The initial survey of the 32 streetaries indicated a wide range of variance when compared with the new guidelines. Staff sent a letter to current operators of streetaries notifying them of the draft guidelines. The operators were asked to respond with their interest in continuing to operate their streetary under the proposed new program. With the new ordinance in effect, Public Works staff will have the authority to accept and process applications from existing businesses intending to make modifications to existing structures and continue participating in the streetary program as well as applications from new businesses that wish to operate new streetaries. All existing streetaries, including those permitted before and during the COVID-19 emergency authorization, would be subject to the new ordinance and guidelines.

For operators who would like to remove the streetaries and not participate in the new program, staff intends to offer an incentive to remove the streetary before December 1, 2022. The City would remove and absorb the cost of removal. This program would be implemented by staff, within the City Manager’s existing programmatic authority, without further City Council action.

ENVIRONMENTAL DETERMINATION

Staff has determined that the proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15304 (Class 4), 15305 (Class 5) and 15183.

Class 4 categorical exemptions (Minor Alterations to Land) consist of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes, including “minor temporary uses of land having negligible or no permanent effects on the environment . . .” (CEQA Guideline § 15304(e).) This ordinance will involve the temporary, non-permanent use of land; all uses authorized pursuant to this ordinance would involve temporary, non-permanent improvements in the public right-of-way including temporary structures, tables and seating.

Class 5 categorical exemptions (Minor Alterations in Land Use Limitations) covers projects that consist of minor alterations in land use limitation in areas with an average slope of less than 20%, which do not result in any changes in land use or density including but not limited to issuance of minor encroachment permits. (CEQA Guideline § 15305.) This ordinance will result in the issuance of permits for use and encroachment into the public right-of-way.

Section 15183 provides that when a proposed project is consistent with a General Plan or community plan for which an EIR was certified, subsequent environmental review may only be required to examine “project-specific significant effects, which are peculiar to the project or its site.” On July 19, 2021, the City Council approved a resolution certifying the Environmental Impact Report (EIR) that was prepared to analyze the environmental impacts of the City’s General Plan 2040 and Downtown Precise Plan. The City Council adopted both Plans as well as a statement of overriding considerations on August 2, 2021. As the conversion of on-street parking for use as outdoor dining is part of a strategy identified in the Downtown Precise Plan for creating civic spaces in infill conditions, this ordinance is consistent with the Downtown Precise Plan and associated EIR. The project is therefore, exempt from CEQA pursuant to section 15183 of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance or its implementation would have a significant effect on the environment.

The proposed Ordinance is consistent with these exemptions because the requested action will not result in a direct or reasonably foreseeable change in the environment and because there is no possibility that the activity in question may have a significant effect on the environment.

PUBLIC NOTICE / CORRESPONDENCE

Notice of hearing for the project was conducted in accordance with noticing requirements contained in Chapter 29 of the Zoning Ordinance. A Notice of Public Hearing was published in the Marin Independent Journal on August 29, 2022 and mailed to all relevant stakeholders, agencies and special interest groups on August 25, 2022. As of the writing of this staff report, no public comment has been received. Any communication received will be forwarded to the Planning Commission

OPTIONS

The Planning Commission has the following options:

1. Adopt the Resolution recommending the City Council adopt the ordinance with zoning text amendments and amendments to Downtown Precise Plan; or
2. Adopt the Resolution with certain modifications or changes; or
3. Continue the hearing (to a date certain or an undefined date) to allow staff to address any of the Commission's comments or concerns; or
4. Recommend that the City Council do not adopt the ordinance.

EXHIBITS

1. Resolution

RESOLUTION NO. 22-

RESOLUTION OF THE CITY OF SAN RAFAEL PLANNING COMMISSION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF AN ORDINANCE ADDING CHAPTER 11.70 (“STREETARIES” OUTDOOR EATING AREAS) TO TITLE 11 (PUBLIC WORKS) OF THE SAN RAFAEL MUNICIPAL CODE; AMENDING SECTION 14.16.277 OF CHAPTER 14.16 (SITE USE AND REGULATIONS), SECTION 14.17.110 OF CHAPTER 14.17 (PERFORMANCE STANDARDS), SECTION 14.05.020 OF CHAPTER 14.05 (COMMERCIAL AND OFFICE DISTRICTS), SECTION 14.06.020 OF CHAPTER 14.06 (INDUSTRIAL DISTRICTS) AND SECTION 14.08.020 OF CHAPTER 14.08 (MARINE DISTRICT) OF TITLE 14 (ZONING) OF THE SAN RAFAEL MUNICIPAL CODE; AND AMENDING TABLE 2.3.070.A (USE TABLE) OF CHAPTER 9 (DOWNTOWN FORM-BASED CODE) OF THE DOWNTOWN SAN RAFAEL PRECISE PLAN RELATING TO OUTDOOR EATING AREAS IN THE PUBLIC RIGHT-OF-WAY (ZO22-004)

WHEREAS, staff plans to recommend the City Council adopt a new ordinance to add a new Chapter 11.70 (“Streetaries” Outdoor Eating Areas”) under Title 11 (Public Works) to the San Rafael Municipal Code (SRMC), governing outdoor eating areas in parking spaces within the public right-of-way, known as “streetaries”; and

WHEREAS, outdoor dining in the public right-of-way was previously authorized by the City Council in April 2000, through adoption of Ordinance 1751, codified at SRMC Section 14.16.277, *Use of City Sidewalks and Rights-of-Way for Outdoor Eating Areas*, by authorizing the Community Development Director to license outdoor dining in “sidewalks and other rights-of-way” under certain conditions and subject to performance standards under Section 14.17.110(C), *Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments*; and

WHEREAS, on August 17, 2015, the City Council adopted Resolution 13995, establishing a 3-year pilot program to expand the outdoor dining program to include parklets in the streets, which provided a process for businesses to use parking spaces for outdoor dining purposes; and

WHEREAS, on December 3, 2018, the City Council authorized the on-street dining program to continue under the same limitations and three (3) merchants participated in the pilot program; and

WHEREAS, on June 1, 2020, to help local businesses during the Covid-19 emergency, the City Council adopted Resolution 14809 authorizing the City Manager, at his discretion, to streamline the approval of permits or other entitlements for use of City sidewalks and on-street parking spaces for business activities of restaurants and retail businesses, waive or reduce application fees, and close portions of designated City streets up to two evenings per week in order to facilitate outdoor dining, and allow dining establishments to continue to operate when indoor dining was not allowed, during the

Covid-19 emergency; and

WHEREAS, an additional twenty-nine (29) merchants participated in the streamlined program, thereby maintaining economic stability during challenging Covid-19 pandemic restrictions; and

WHEREAS, Temporary Outdoor Dining Program permits approved by the Director of Public Works under the streamlined process are valid through November 30, 2022; and

WHEREAS, on June 21, 2022, staff presented Draft Streetary Guidelines to the City Council with staff's recommendations for design and development standards, operational standards, fees, and other related requirements for new streetary encroachment permits that would apply after current permits expire on November 30, 2022; and

WHEREAS, the proposed ordinance adding Chapter 11.70 to the SRMC regulates the design and development standards, operational standards, fees, and other related requirements for and designates the Director of Public Works as the City's representative to issue streetary encroachment permits; and

WHEREAS, adding Chapter 11.70 would require conforming text amendments to Title 14 of the SRMC and the Downtown Precise Plan to remove regulation of outdoor eating establishments in parking spaces within the right-of-way; and

WHEREAS, the proposed Ordinance to add Chapter 11.70 ("Streetaries" Outdoor Eating Areas) to Title 11 (Public Works) and amend corresponding sections of Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan relating to outdoor eating areas in the public right-of-way through streetary encroachment permits qualify for the exemptions set forth in CEQA Guidelines sections 15304 and 15305 and statutory exemption section 15183; and

WHEREAS, the Planning Commission held a duly noticed public hearing on September 13, 2022, at which time it reviewed the proposed ordinance adding Chapter 11.70 of the SRMC and amendments to Title 14 (Zoning) of the SRMC and Chapter 9 of the Downtown Precise Plan, considered all public comments on the revisions and related CEQA exemptions, and recommended the proposed text amendments to conform with the proposed ordinance.

NOW, THEREFORE, BE IT RESOLVED, that in support of the proposed ordinance adding Chapter 11.70 ("STREETARIES" OUTDOOR EATING AREAS) to Title 11 (PUBLIC WORKS) of the San Rafael Municipal Code as written in Attachment A of this resolution; that the Planning Commission recommends to the City Council adoption of amendments to Title 14 of the San Rafael Municipal Code and the Downtown Precise Plan sections as outlined in Attachment B of this resolution, based on the following findings as required under Zoning Code Section 14.27.060:

1. The amendment to San Rafael Municipal Code and Downtown Precise Plan is consistent with the San Rafael General Plan 2040 Goal EV-1: A Healthy and Resilient Economy because the program would streamline the permitting process, strengthen public safety standards, create a consistent design aesthetic, and ensure equity in the use of the public right of way. The amendment is consistent with the following specific and applicable polices:
 - a. **Policy EV-1.4: Business Retention and Support** in that city staff reached out to solicit feedback from the Economic Development Subcommittee, the Chamber of Commerce, as well as various business owners throughout the community and incorporated their comments within the guidelines to simplify and streamline the permit process.
 - b. **Policy EV-3.1: Business Areas** in that the program would improve the safety, security, cleanliness, and convenience of San Rafael’s business districts so that they are places where customers want to dine, providing a comfortable, enjoyable experience for residents, workers, and visitors which is an important part of remaining competitive.

2. The public health, safety, and general welfare would be served by the proposed ordinance and zoning amendment because it would require applicants to procure a streetary encroachment permit to be approved by the Department of Public Works in addition to other applicable permits to ensure that the proposal is in accordance with State and local regulations.

The foregoing Resolution was adopted at the regular City of San Rafael Planning Commission meeting held on the 13th day of September 2022.

Moved by Commissioner _____ and seconded by Commissioner _____.

AYES:

NOES:

ABSENT:

ABSTAIN:

SAN RAFAEL PLANNING COMMISSION

ATTEST: _____
 Leslie Mendez, Secretary

BY: _____
 Jon Previtali, Chair

Attachment A: Draft Amendment to San Rafael Municipal Code adding Chapter 11.70 (“STREETARIES” OUTDOOR EATING AREAS) to Title 11 (PUBLIC WORKS);

Attachment B: Draft Amendment to Section 14.16.277 of Chapter 14.16 (SITE USE AND REGULATIONS), Section 14.17.110 of Chapter 14.17 (PERFORMANCE STANDARDS), Section 14.05.020 of Chapter 14.05 (COMMERCIAL AND OFFICE DISTRICTS), Section 14.06.020 of Chapter 14.06 (INDUSTRIAL DISTRICTS) and Section 14.08.020 of Chapter 14.08 (MARINE DISTRICT) of Title 14 (ZONING) of the San Rafael Municipal Code; and amendment to Table 2.3.070.A (USE TABLE) of Chapter 9 (DOWNTOWN FORM-BASED CODE) of the Downtown San Rafael Precise Plan relating to outdoor eating areas in the public right-of-way.

ZC22-004**Addition of Chapter 11.70 to the San Rafael Municipal Code.****Chapter 11.70 – “STREETARIES” OUTDOOR EATING AREAS****11.70.010 - Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meaning set forth below. Unless in direct conflict with terms defined herein, other words and phrases shall be interpreted as defined in the Streets and Highways Code:

- A. “Outdoor eating area” shall have the same meaning as set forth in Section 14.03.030 of Title 14.
- B. “Parking spaces within the public right-of-way” shall mean the designated on-street or off-street area where parking of vehicles does not violate any posted parking restriction and the use of the space does not interfere with the safety nor the passage of persons and vehicles.
- C. “Permittee” shall mean the permit holder of a valid streetary encroachment permit issued by the city.
- D. “Streetary” or “streetaries” shall mean an outdoor eating area that operates within and uses parking spaces within the public right-of-way directly adjacent to the food service establishment street frontage. Outdoor eating areas operating within or using sidewalks within the public right-of-way are not covered under this chapter and are subject to the applicable standards under Section 14.16.277 of Title 14.

11.70.020 - Permit required.

Any person desiring to erect, construct, place or maintain an encroachment upon any existing parking spaces within the public right-of-way for a streetary must first obtain an annual streetary encroachment permit pursuant to this chapter. Each applicant for an annual streetary encroachment permit shall comply with the requirements of this chapter, any other applicable laws, and any regulations and policies adopted pursuant to this chapter.

Permits shall only be issued to applicants with a valid business license issued by the city to operate a food service establishment directly adjacent to the parking spaces within the right-of-way for which a streetary encroachment permit is sought.

All persons operating and/or maintaining a streetary as of the effective date of this ordinance shall be required to obtain a streetary encroachment permit and pay applicable fees no later than December 1, 2022. Failure to obtain a streetary encroachment permit within this time period shall constitute a violation of this chapter

and may subject the current streetary operator to closure and/or enforcement pursuant to this chapter.

11.70.030 - Permit application.

The director of public works (the "director") shall establish an application form for an annual streetary encroachment permit, including any application materials deemed necessary to enable complete review of the application. The application shall be accompanied by a permit application fee required under Section 11.70.040.

The director shall transmit a copy of each application for an annual streetary encroachment permit to the director of community development (the "planning director"). The planning director shall review the application for compliance with all applicable design and development standards.

11.70.040 - Fees.

Each permit application shall be accompanied by a permit application fee. Prior to permit issuance, the permittee shall pay an annual encroachment lease fee and a one-time, refundable deposit. Fees shall be in amounts set forth by separate resolution of the City Council.

11.70.050 - Where permitted.

- A. Streetaries are permitted in existing parking spaces within the right-of-way in all commercial districts.
- B. Streetaries are only permitted in the parking spaces within the right-of-way directly adjacent to the food service establishment street frontage.
- C. Notwithstanding subsection A, above, streetaries shall not be permitted along streets with (1) peak hour parking restrictions or (2) speeds limits greater than 25 miles per hour.
- D. Notwithstanding subsection A, above, streetaries shall not be permitted in parking spaces that (1) are ADA designated, (2) are adjacent to curbs designated for no parking (red curb), passenger loading zones (white curb), commercial loading zones (yellow curb), limited parking zones (green) and/or any other colored curb zones with restrictions on driveways, ADA ramps, or entrances to parking lots or city-owned parking facilities, (5) would block or obstruct any fire hydrant, fire department sprinkler or standpipe hose, or other public safety infrastructure, (6) would obstruct utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets, or (6) would obstruct any bicycle facility.

11.70.060 - Location criteria.

- A. Maximum parking stalls. A maximum of two parallel parking spaces shall be used for each streetary.

B. Parking sufficiency.

1. Seventy percent (70%) of on-street parking on any block must remain available for vehicles at any given time.

2. Notwithstanding, section 11.70._____ the director at their sole discretion may consider an exception to this requirement only if: (1) more than 70% of on-street parking on a three-block average (the streetary location's block and one block in either direction) remains available for vehicle parking; or (2) the entrance to a public parking garage or lot is within 300 feet of the streetary location. Adjacency to storefront. Streetaries may only be permitted in parking spaces within the right-of-way that are directly in front of the permittee's food service establishment business. If a food service establishment fronts more than one but less than two parking spaces and fronts more than fifty percent (50%) of the second parking space, the permittee is eligible to apply for two parking spaces for use as a streetary.

C. Travel lane setback. Streetaries shall have an eighteen inch (18") minimum setback from the travel lane measured from the parking striping adjacent to the travel lane. In cases where no striping exists, the maximum length of the streetary measured from the face of the curb shall be determined by the director or their designee.

D. Side setback. Streetaries shall have a two-foot minimum side setback to each wheel stop located at each end of the parking space.

E. Utilities. A minimum clearance of four feet (4') from either side of utility access panels, manhole covers, storm drains, street valves, or any other type of utility assets will be required to allow for maintenance access. Streetaries proposed under overhead utility lines shall meet the minimum vertical distance requirements as established by the California Public Utility Commission. Streetaries that block the outlet of a sidewalk underdrain shall ensure the outlet is functional and flowing. Permittees shall take a thorough inventory of utility access covers in the proposed streetary area by checking under parked cars. Permittees shall provide for access to any city or public utility company that may have underground conduits beneath the constructed streetary. Access to utilities may require that a permittee temporarily remove all or a portion of the constructed streetary. Permittees shall be responsible for the cost of removing, re-installing and restoring any damage to the streetary.

11.70.070 - Design and development standards.

The city council shall, by separate resolution, adopt design and development standards regulating the form, design, safety and maintenance of streetaries. The director may, from time to time, make minor modifications to the design and development standards.

11.70.080 - Criteria for issuance.

A. The director, in acting upon any application for a streetary encroachment permit, shall either approve, approve with conditions or deny the issuance of a permit based on the following principles and standards:

1. That the applicant has paid all fees required under Section 11.70.040.
 2. That the proposed use of the parking spaces within the public right-of-way is in compliance with all applicable provisions of this chapter;
 3. That the proposed use of the parking spaces in the public right-of-way is so arranged as to ensure the protection of public health, safety and general welfare, and prevent interference with users of the sidewalks, streets and holders of other permits; and
 4. That the proposed use will properly comply with the provisions and development standards prescribed in this chapter, or as prescribed by the director and/or planning director.
- B. The streetary encroachment permit may be subject to additional conditions where the city has documented any violation of this chapter, other applicable laws and regulations, or the streetary is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood.
- C. Deviations from adopted standards. Where the director determines that (1) a strict application of standards set forth in this chapter cannot be met by a proposed streetary, and (2) the streetary, as proposed, will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood, the director may grant exceptions or minor modifications to the standards set forth in this chapter.

11.70.090 - Limited to food service establishments.

All permits issued pursuant to this chapter shall be limited to streetaries established in conjunction with and abutting food service establishments.

11.70.100- Operational standards.

- A. No live entertainment or amplified music. No live entertainment or amplified music shall be permitted in streetaries established pursuant to this chapter without first obtaining all required permits including but not limited to those issued pursuant to Section 8.13.060 of Title 8.
- B. No outdoor food preparation, flames, heating. Outdoor food preparation, food heating mechanisms, cooking and open flames, hotpots, candles, open flames, and barbecues shall not be permitted in streetaries.
- C. Alcohol service. Alcohol service shall be permitted subject to the acquisition of all required local and State permits and licenses.

- D. Noise and disruptive behavior. Permittees shall be responsible for ensuring their patrons minimize noise and disruptive behavior while using their streetary space.
- E. Site maintenance. Streetaries shall be maintained free of litter, refuse and debris. The area shall be scrubbed and mopped daily by the permittee to remove any food or drink stains. Such cleaning shall be in accordance with the City's Storm Water Management and Discharge Control Program, which prohibits any discharge other than rainwater into the storm water drainage system.
- F. ADA compliance. Streetary seating areas must, at all times, comply with all requirements of the Americans with Disabilities Act (ADA) and provide sufficient clearance and walkway space to allow safe access and egress. For multi-level streetaries, a minimum of one level of ADA access shall be required.
- G. Hours of operation. The streetary shall adhere to the same approved hours of operation as the associated food service establishment business, with the following limitations:
 - 1. For streetaries that are within 150-foot horizontal or vertical distance from residences: Streetaries shall not commence operations prior to 7 a.m. on Saturdays, Sundays, and holidays; Streetaries shall not commence operations prior to 6 a.m. Monday through Friday; Streetaries shall not operate after 10 p.m. on Fridays and Saturdays; Streetaries shall not operate after 9 p.m. Sunday through Thursday and holidays. For purposes of this section, "holidays" shall have the same meaning as set forth in chapter 8.13 (Noise) of title 8.
- H. Insufficient usage. Streetaries must demonstrate adequate usage in order to contribute to the economic vitality of the city. The city requires these streetaries to be set up and readily available for use during the operational hours of the food service establishment associated with the streetary, except in inclement weather and subject to the hours of operation limitations under subsection G. The city has the right to notify any streetary in writing of insufficient usage and invoke the enforcement procedures set forth in this chapter.

11.70.110 - Indemnification and insurance.

As a condition of the issuance of an annual streetary encroachment permit, the permittee shall defend, indemnify and hold harmless the City of San Rafael and shall present, along with each application or renewal application for an annual permit, evidence of liability insurance in a form acceptable to the director.

11.70.120 – Enforcement.

- A. Any person who violates this chapter shall be guilty of a misdemeanor and may be subject to any and all enforcement proceedings or remedies, including the imposition of penalties as authorized by law. The provisions of this chapter are cumulative to any other remedies authorized by law. Any streetary may be subject to inspection by the city on an annual basis or as needed to ensure compliance with this chapter and permits issued pursuant to this chapter.

B. The city retains the right to revoke a streetary encroachment permit at any time where a violation of this chapter has occurred and/or revocation is necessary to protect the public interest, health, safety and/or welfare of the community. If the director believes that a permittee is in violation of this chapter, the director may issue a notice of violation to the permittee. The notice of violation shall be served on the permittee, either in person or by first class mail. The notice shall indicate that the permit is subject to termination unless, within 30 days of service of the notice of violation, the violation is corrected or a hearing pursuant to this chapter is requested in writing. If the director or his designee determines that a permittee will not be able to continue to meet the requirements of this chapter because of a proposed public highway right-of-way improvement, the director or his designate shall notify the permittee, either in person or by first class mail, that the permit will be terminated within 30 days of service of the notice of termination.

11.70.130 – Appeals.

Any person aggrieved by the director's action on a streetary encroachment permit application or revocation may appeal by submitting a written appeal to the city manager, along with any applicable appeal fee as provided in the city's master fee schedule, within fifteen (15) days of the date on which the permit was issued or on which the application was denied or on which the permit was revoked. The city manager, or his designee, shall hold a hearing on the appeal within thirty (30) days of receipt of the appeal, and shall give the applicant and the appellant at least ten (10) days' written notice of the time of the hearing. The decision by the city manager or his designee on the appeal shall be final.

Amendments of Section 14.16.277 of Chapter 14.16 (Site Use and Regulations), Section 14.17.110 of Chapter 14.17 (Performance Standards), Section 14.05.020 of Chapter 14.05 (Commercial and Office Districts), Section 14.06.020 of Chapter 14.06 (Industrial Districts) and Section 14.08.020 of Chapter 14.08 (Marine District) of Title 14 (Zoning) of the City of San Rafael Municipal Code; and Amendment of Table 2.3.070.A of the Downtown San Rafael Precise Plan.

Amendment of Section 14.16.277 of the San Rafael Municipal Code.

Section 14.16.277 (“Use of city sidewalks and rights-of-way for outdoor eating areas”) of Chapter 14.16 (“Site and Use Regulations”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strikethrough~~, and additions are in underline.

14.16.277 Use of city sidewalks ~~and rights-of-way~~ for outdoor eating areas.

- A. Applicability. This section applies to the use of city sidewalks located within the public right-of-way for outdoor eating areas. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.
- ~~A.B.~~ Notwithstanding any other provisions of this title, the use of city sidewalks ~~or other city rights-of-way~~ for outdoor eating areas is prohibited without a license agreement between the adjacent food service establishment and the city, which license agreement shall be in lieu of any environmental design review permit, use permit, administrative use permit, encroachment permit or other permit required for use of the city sidewalk ~~or right-of-way~~ for such purpose.
- ~~B.C.~~ Such license agreements shall be in a form approved by the city attorney, and shall include the applicable standards provided in Section 14.17.110(C), indemnification of the city, and liability insurance naming the city as an additional insured in an amount not less than one million dollars (\$1,000,000.00) and in a form as approved by the city's risk manager.
- ~~C.D.~~ Such license agreement also shall be subject to such regulations hereafter deemed necessary by the community development director to protect the public health, safety, and welfare, and as approved by resolution of the city council.
- ~~D.E.~~ Such license agreements may be approved by the community development director and may be revoked at the pleasure of the city council.
- ~~E.F.~~ The placement of outdoor seating area barriers shall allow a minimum six-foot (6') wide clear pathway for sidewalks located within the public rights-of-way.

~~F.G.~~ In lieu of the aforementioned license agreement, the city council may enter into a lease agreement between the adjacent food service establishment at a rate and term to be determined by the city council, and as approved by resolution of the city council.

(Ord. 1751 § 6, 2000).

Amendment of Section 14.17.110 of the San Rafael Municipal Code.

Subsection B (“Applicability”) of Section 14.17.110 (“Outdoor eating areas proposed in conjunction with food service establishments”) of Chapter 14.17 (“Performance Standards”) of Division IV (“Regulations Applying in All or Several Districts”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~striketrough~~, and additions are in underline.

14.17.110 Outdoor eating areas proposed in conjunction with food service establishments.

B. Applicability.

1. This section applies to outdoor eating areas proposed in conjunction with food service establishments, with the exception of outdoor eating areas within parking spaces within the public right-of-way. Any outdoor eating area located within or using parking spaces within the public right-of-way shall not be subject to the provisions of this section, but shall be regulated as provided in Chapter 11.70 of Title 11.
2. Performance standards for outdoor eating areas proposed in conjunction with restaurants or other food service establishments shall apply in any zoning district where food service establishments are permitted uses (as of right or by conditional use permit). Compliance with performance standards for outdoor eating areas shall be reviewed through an administrative use permit and administrative environmental and design review permit process for any existing food service establishment. In cases where the restaurant or food service establishment is being proposed as a new use and is subject to a conditional use permit in the zoning district in which it is located, the performance standards shall be incorporated into the required use permit. Notwithstanding the foregoing, any outdoor eating area located on city sidewalks ~~or rights-of-way~~ shall not be subject to the administrative use permit or use permit process, but shall be regulated as provided in Section 14.16.277.

(Ord. 1751 §§ 4, 5, 2000; Ord. 1663 § 1 (part), 1994; Ord. 1625 § 1 (part), 1992).

(Ord. No. 1882, Exh. A, § 61, 6-21-2010)

Amendment of Section 14.05.020 of the San Rafael Municipal Code.

Table 14.05.020 of Section 14.05.020 (“Land Use Regulations (GC, NC, O, C/O, R/O, FBWC)”) of Chapter 14.05 (“Commercial and Office Districts”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.05.020 shall be modified by this amendment.

Table 14.05.020

Type of Land Use	GC	NC	O	C/O	R/O	FBWC*	Additional Use Regulations
Commercial Uses							
Outdoor eating areas	A*	A*	A*	A*	A*	A*	For outdoor eating areas on private property see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Amendment of Section 14.06.020 of the San Rafael Municipal Code.

Table 14.06.020 of Section 14.06.020 (“Land Use Regulations (I, LI/O, CCI/O, LMU)”) of Chapter 14.06 (“Industrial Districts (I, LI/O, CCI/O, LMU)”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strike through~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.06.020 shall be modified by this amendment.

Table 14.06.020

Types of Land Use	I	LI /O	CCI /O	LM U	Additional Use Regulations
Commercial Uses					
Outdoor eating areas	A	A	A	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Amendment of Section 14.08.020 of the San Rafael Municipal Code.

Table 14.08.020 of Section 14.08.020 (“Land Use Regulations (M)”) of Chapter 14.08 (“Marine District”) of Division II (“Base District Regulations”) of Title 14 (“Zoning”) of the City of San Rafael Municipal Code is hereby amended as set forth below. Deletions are in ~~strikethrough~~, and additions are in underline. Unless indicated below, no other cells or rows within Table 14.08.020 shall be modified by this amendment.

Table 14.08.020

Type of Land Use	M	Additional Use Regulations
Commercial		
Outdoor eating areas	A	For outdoor eating areas on private property, see Section 14.17.110 standards. For outdoor seating areas located on city sidewalks or rights-of-way , see Section 14.16.277 standards. <u>For outdoor eating areas on parking spaces within the public right-of-way, see Chapter 11.70 – “Streetaries” Outdoor Eating Areas.</u>

Amendment of Table 2.3.070.A of the Downtown San Rafael Precise Plan.

Footnote 17 of Table 2.3.070.A (“Use Table”) of Article 2 (“Downtown Form-Based Zones”) of Chapter 9 (“Downtown Form-Based Code”) of the August 2021, Downtown San Rafael Precise Plan is hereby amended as set forth below. Deletions are in ~~strikethrough~~, and additions are in underline. Unless indicated below, no other cells, rows or footnotes within Table 2.3.070.A shall be modified by this amendment.

¹⁷ For outdoor eating areas on private property, see SRMC Section 14.17.110 (Outdoor Eating Areas Proposed in Conjunction with Food Service Establishments) standards. For outdoor seating areas located on city sidewalks ~~or rights-of-way~~, see SRMC Section 14.16.277 (Use Of City Sidewalks ~~and Rights-of-way~~ for Outdoor Eating Areas) standards. For outdoor eating areas on parking spaces within the public right-of-way, see SRMC Chapter 11.70 (“Streetaries” Outdoor Eating Areas).