



AGENDA

SAN RAFAEL CITY COUNCIL - MONDAY, DECEMBER 5, 2022

REGULAR MEETING AT 7:00 P.M.

In-Person:

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

Participate Virtually:

Watch on Zoom Webinar: <https://tinyurl.com/cc-2022-12-05>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 817-3692-0337#

One Tap Mobile: US: +16699009128,,81736920337#

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.
- 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 city.clerk@cityofsanrafael.org.
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and press *9 to raise your hand, and *6 to unmute yourself, then 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.

OPEN SESSION - THIRD FLOOR CONFERENCE ROOM - 6:00 PM

Dial-in: (669) 444-9171, Meeting ID# 883-4631-2902#

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1. Mayor Kate to announce Closed Session items.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM – 6:00 PM

2. Closed Session:

- a. **CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION**
(Paragraph (1) of subdivision (d) of Government Code Section 54956.9)
1 case: Francisco Boulevard Investors v. CSR

OPEN TIME FOR PUBLIC EXPRESSION

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

PUBLIC HEARING

3. Public Hearing:

- a. **San Rafael 2023-2031 Housing Element**
Submittal of the HCD Draft 2023-2031 San Rafael Housing Element to the California Department of Housing and Community Development for Their Initial Review and Comment (CD)
Recommended Action – Approve Submission
- b. **Aldersly Retirement Community Project**
Approval of Actions as Recommended by the Planning Commission for the Phased Development of New Buildings and Other Improvements, and Demolition of Existing Buildings on the Aldersly Retirement Community Property, Including 14 Additional Independent Living Units on a 2.9 Acre Site Located at 326 and 308 Mission Avenue (CD)
 - i. Resolution Certifying the Final Environmental Impact Report, Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for the Aldersly Planned Development Amendment Project
Recommended Action – Adopt Resolution
 - ii. Introduction of an Ordinance of the City of San Rafael City Council Approving a Planned Development Rezoning from Planned Development District (PD 1775) to Planned Development District (PD) and Development Plan Including 14 Net New Independent Living Units for the 2.9-Acre Senior Retirement Community Site Located at 308 and 326 Mission Avenue
Recommended Action – Waive further reading of the ordinance and refer to it by title only, and introduce the ordinance
 - iii. Resolution Approving the Master Use Permit Amendment (UP20-022) and Environmental and Design Review Permit (ED20-051) for the Aldersly Retirement Community at 308 and 326 Mission Avenue (APN 014-054-31 and 32)
Recommended Action – Adopt Resolution

c. **Rotary Manor Culvert Replacement**

Resolution Adopting the Initial Study/Mitigated Negative Declaration (IS/MND) and Associated Mitigation Monitoring and Reporting Program for the Rotary Manor Culvert Replacement Project; Authorization to Staff to Proceed with Final Design and Procurement of Regulatory Environmental Permits (PW)

Recommended Action – Adopt Resolution

d. **Marin Sanitary Service Rates for 2023**

Resolution Approving Maximum Rates Collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be Effective January 1, 2023 (CM)

Recommended Action – Adopt Resolution

e. **Downtown Business Improvement District (BID) Business Assessment Annual Renewal**

Resolution Confirming the 2022 Annual Report for the Downtown Business Improvement District and Levy of Assessments for Calendar Year 2023 (ED)

Recommended Action – Adopt Resolution

CONSENT CALENDAR:

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

4. Consent Calendar Items:

a. **Ordinance Amending Green Building Codes**

Adoption of Ordinance 2022: An Ordinance Amending Title 12 (Building Regulations) of the Municipal Code of the City of San Rafael, by Amending the 2022 California Green Building Standards Code for Electric Vehicle Chargers; Amending the 2022 California Mechanical Code and the 2022 California Plumbing Code to Limit Fuel Gas in Existing Single Family Homes and Duplexes, and Prohibit Fuel Gas in New Construction with Limited Exceptions; and Adopting Findings of Fact Supporting the Amendments to the Codes (CC)

Recommended Action – Final adoption of Ordinance 2022

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and at City Hall, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting. 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. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 3.a

Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: Community Development

**Prepared by: Alicia Giudice, Director
Barry Miller, Consultant**

City Manager Approval: _____

TOPIC: SAN RAFAEL 2023-2031 HOUSING ELEMENT

SUBJECT: SUBMITTAL OF THE HCD DRAFT 2023-2031 SAN RAFAEL HOUSING ELEMENT TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR THEIR INITIAL REVIEW AND COMMENT

RECOMMENDATION:

Direct staff to submit the HCD Draft 2023-2031 San Rafael Housing Element to the California Department of Housing and Community Development for their initial review and comment.

EXECUTIVE SUMMARY:

The Housing Element is the City's long-range plan for conserving and maintaining its housing supply, removing regulatory barriers to housing production, promoting fair housing, and creating new housing opportunities for all residents. Requirements and timelines for Housing Elements are established by State law, as well as guidelines developed by the California Department of Housing and Community Development (HCD). All cities and counties in the Bay Area are currently updating their Housing Elements to cover the 2023-2031 period.

Through its Housing Element, each city and county must demonstrate that it has the capacity to accommodate its "fair share" of the region's housing needs for the next eight years. San Rafael's fair share assignment was calculated by the Association of Bay Area Governments (ABAG) to be 3,220 housing units, including 1,387 units affordable to low- and very low-income households. Although the City itself does not develop housing, it must show that it has a sufficient number of sites zoned for housing construction by the private and non-profit sectors. It must also demonstrate that it will implement programs to mitigate or remove constraints to development and encourage a variety of housing types. The Element must further demonstrate that the City is "affirmatively furthering fair housing" (AFFH) by creating opportunities for affordable housing in high-resource neighborhoods along with programs to end housing discrimination and promote fair housing practices.

State law requires that cities and counties publish a "Working Draft" of their Housing Elements for HCD review prior to adoption ("Draft Housing Element"). The City of San Rafael published its Working Draft on November 4, 2022 and is soliciting public comments during a statutorily required 30-day review period. At its November 15 meeting, the Planning Commission unanimously recommended that the City Council

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

authorize staff to forward the Draft Housing Element to HCD in December at the end of the review period. Staff is now seeking Council authorization to revise the Element in response to public comments received since November 4 and authorization to submit the Draft Housing Element to HCD for its review. The City Council will adopt the Element and associated zoning code revisions in early 2023, after staff receives HCD comments and makes appropriate revisions.

BACKGROUND:

Overview

Every city and county in California is required to adopt a Housing Element as part of its General Plan. The Housing Element is the only part of the General Plan that must be submitted to the State for certification, a process that is performed by HCD. Cities without certified Housing Elements face adverse consequences, including limited access to State funding and vulnerability to lawsuits and financial penalties. To avoid such consequences, HCD must make a formal determination that each Housing Element substantially complies with Government Code requirements.

San Rafael's current [Housing Element](#) was adopted on January 5, 2015 and was certified by the State on January 23, 2015. The planning period covered by that Housing Element was February 1, 2015 through January 31, 2023. State law requires that the City's next Housing Element be adopted by January 31, 2023 and cover the period from February 1, 2023 through January 31, 2031.

State requirements for Housing Elements have expanded considerably in the last eight years. The focus of prior Housing Elements was on housing conservation and the creation of new housing opportunities. While housing production is still the central focus, there is a much greater emphasis on equity, fair housing, and meeting the needs of lower-income households and persons with special needs. Cities have been asked to plan for much larger quantities of housing and provide substantially more detail on potential housing sites. Requirements for community engagement and outreach to under-represented populations also have been expanded. Cities and counties must demonstrate that their policies and programs are affirmatively furthering fair housing and directly addressing the factors that have resulted in segregation and concentrated poverty around the State.

The City of San Rafael initiated its Housing Element update process in September 2021. Over the last 14 months, the City has completed background data collection and analysis tasks; completed a robust public outreach program; and drafted new goals, policies, and programs. In November 2021, the City Council appointed a 13-member Working Group to advise on key policy choices. The Working Group met eight times between December 2021 and August 2022. Other community engagement activities included three community workshops, a developer forum, presentations and outreach to neighborhood and community-based organizations, a community survey, numerous focus groups and interviews, a project website, pop-up workshops, and focused outreach to the Spanish-speaking community. Outreach efforts have been aligned with other City initiatives promoting equity and inclusion.

Regional Housing Needs Allocation

The key driver of the Housing Element is the Regional Housing Needs Allocation (RHNA). The RHNA process has been in effect since 1969 when the State legislature mandated that all communities do their "fair share" to meet California's housing needs. The RHNA is a top-down process that begins with the State determining the eight-year housing need for each region of California. Each regional council of governments is given the task of assigning the regional need to individual counties and cities. The Association of Bay Area Governments (ABAG), the Bay Area regional council, was tasked with

disaggregating a regional assignment of 441,176 housing units to nine counties and 101 cities. This process occurred in 2020-2021.

San Rafael's allocation for the 2023-2031 planning period is 3,220 units. This is more than three times the 2015-2023 allocation of 1,007 units. Marin County, including the unincorporated areas and the 11 cities, saw much steeper rates of increase. The countywide RHNA increased by 526 percent, from 2,298 units (2015-23) to 14,405 units (2023-31).

ABAG disaggregates the RHNA into four income categories, as shown in the table below.

Table 1: 2023-2031 Regional Housing Needs Allocation (RHNA) for San Rafael

	Very Low	Low	Moderate	Above Moderate	Total
Number of Units	857	492	521	1,350	3,220
Income Range (Household of 4)	>\$93,200	\$93,200- \$149,100	\$149,100- \$199,200	>\$199,200	

Source: ABAG, 2021. HCD Income Limits, 2022.

In order to have a substantially compliant Housing Element, the City is required to demonstrate that it has the zoning capacity to produce this quantity of housing by 2031. It is not required to issue building permits or provide entitlements for this quantity of housing. However, the number of units permitted annually (by income category) will be used as a metric to evaluate the Element's success and the need for additional programs to come closer to the targets.

ANALYSIS:

Housing Element Organization and Contents

The San Rafael 2023-2031 Housing Element includes six chapters and three technical appendices. Highlights of each chapter are provided below.

Chapter 1: Introduction

The introduction explains the purpose of the Housing Element. It also describes San Rafael's local and regional context, the RHNA process and San Rafael's assignment, and the statutory requirements for the Housing Element. The Element also explains the organization of the document and includes a detailed description of the community engagement program. The community engagement discussion focuses on efforts to reach lower income households, non-English speaking households, and persons with special housing needs.

Chapter 2: Evaluation of the 2015 Housing Element

This chapter evaluates the City's progress toward implementing the last (2015-2023) Housing Element. It includes a program-by-program assessment of the 2015 Housing Element, indicating whether each program should be carried forward, edited, or replaced. The Chapter also indicates the extent to which the City met its RHNA for the previous planning period. The Planning Commission reviewed this chapter at its [February 15, 2022 meeting](#).

Chapter 3: Housing Needs Assessment

The Needs Assessment includes an analysis of demographic and socio-economic conditions, housing conditions, and market trends. The analysis is used to identify current and future housing needs in San Rafael, particularly for lower-income households and populations with special housing needs. Highlights and findings of the Needs Assessment were included in a Progress Report delivered to the City Council at their [April 4, 2022 meeting](#).

Chapter 4: Housing Sites and Resources Analysis

This chapter includes an evaluation of the sites most likely to be available for residential development in the next eight years. The City Council received a presentation and staff report on housing sites at its [August 1, 2022 meeting](#). The list of sites was refined in August 2022 to incorporate public input and to ensure that the Housing Sites Inventory was fully aligned with the development opportunities identified in General Plan 2040 and the Downtown Precise Plan. The inventory identifies opportunities for 4,658 housing units on 112 sites in San Rafael, providing a substantial buffer above the RHNA. A summary of housing capacity by site type is shown in Table 1 below. Sites with the potential for lower-income units are generally zoned at densities of 30 units per acre or more and are geographically distributed in support of the State goal to affirmatively further fair housing.¹

The Sites chapter has been structured to address HCD requirements. The City must demonstrate that the presumed development capacity estimates for each site are reasonable and that each listed site could realistically be developed in the next eight years. The chapter also addresses projected accessory dwelling unit (ADU) production over the next eight years, environmental constraints on the housing sites, and the availability of infrastructure to serve the sites. This chapter also includes State-mandated discussions of energy conservation resources in San Rafael, and a discussion of potential sources of funding for affordable housing and housing programs in the city.

Table 1: Summary of Housing Site Potential for 2023-2031 by Income

Site Type	Income Category			Total
	Lower	Moderate	Above Moderate	
Approved and Proposed Projects				
Approved Projects	200	3	582	785
Proposed Projects	115	135	954	1,204
Opportunity Sites				
Low-Medium Density Residential	3	88	56	147
High-Density (30+ DU/Ac) Residential	335	81	42	458
Mixed Use (Non- Downtown)	373	57	74	504
Mixed Use (Downtown)	587	280	693	1,560
TOTAL POTENTIAL	1,613	644	2,401	4,658
Plus presumed Accessory Dwelling Units	70	100	30	200
Total Potential Including ADUs	1,673	744	2,431	4,858
RHNA	1,349	521	1,349	3,220
Percent over RHNA (“buffer”)	25%	43%	N/A	N/A

Source: City of San Rafael, 2022

¹ According to HCD, "the goal of Affirmatively Furthering Fair Housing (AFFH) is to combat housing discrimination, eliminate racial bias, undo historic patterns of segregation, and lift barriers that restrict access in order to foster inclusive communities and achieve racial equity, fair housing choice, and opportunity for all Californians."

Chapter 5: Housing Constraints

The Constraints chapter addresses governmental constraints to housing development such as zoning, development fees, development standards, and development review processes. It also addresses non-governmental constraints, such as high land and construction costs. The analysis concludes that the City's General Plan and Precise Plan are strongly supportive of housing production. It identifies a number of potential zoning constraints, including height limits in the commercial zones and multi-family zoning districts with maximum densities that are below the levels authorized by the General Plan. The analysis notes that parking requirements are generally not a constraint in transit-served areas (due to recent State laws) and concludes that the recent modifications to the City's affordable housing ordinance and changes to State Density Bonus Law have had a positive effect on housing production.

As required by State law, this chapter evaluates constraints to the production of particular types of housing in the City, including ADUs, single room occupancy hotels, emergency shelters, and transitional and supportive housing. Specific recommendations are included to expand opportunities for special needs housing. The chapter also addresses local permitting procedures and fees, noting the progress that has been made since 2018 when the City began convening developer forums and Council study sessions on strategies to remove constraints and increase housing production.

The final part of this chapter evaluates non-governmental constraints. The focus is on land and construction costs, and financial constraints such as high interest rates and limited availability of low-income housing tax credits. Other non-governmental constraints include community opposition, requests to develop at densities below what is allowed by zoning, and lengthy time delays between project entitlement and construction.

Chapter 6: Housing Plan

This chapter presents goals, policies, and programs to address the City's housing needs as well as quantified objectives for housing development and preservation during the planning period. It is addressed in more detail in the next section of this staff report.

Appendix A: Assessment of Fair Housing

The Assessment of Fair Housing uses maps and tables to illustrate spatial patterns of segregation and concentrated poverty in the city, and the location of high, moderate, and low resource neighborhoods. This data is used to evaluate the adequacy of the City's housing sites, and also to ensure that housing programs further fair housing and provide greater access to resources (e.g., high-performing schools, quality City parks, health care facilities, etc.) in under-served neighborhoods. The analysis informs many of the policies and programs in Chapter 6. Appendix A also evaluates fair housing practices and provides data on discrimination complaints in the city during recent years.

Appendix B: Housing Opportunity Site Inventory

This is a detailed parcel-level spreadsheet with data for each of the 112 identified housing opportunity sites. The sites are organized into six categories (approved projects, proposed projects, vacant low-density residential sites, medium- and high-density residential sites, mixed use sites outside Downtown, and Downtown mixed-use sites). For each property, the database provides assessor parcel number, address, acreage, zoning and General Plan designation, existing land use, theoretical capacity, realistic capacity (by income group), and any constraints or comments.

Appendix C: Public Participation Matrix

The matrix lists the various outreach and engagement efforts that occurred over the course of the project, including key takeaways and metrics for participation. The matrix provides a bridge from the engagement program to the Housing Element policies and program and illustrates how community feedback has shaped the contents of the document.

Goals, Policies, and Programs

The HCD Draft Housing Element includes four goals:

1. End and prevent homelessness in San Rafael.
2. Combat housing discrimination, eliminate racial bias, and undo historic patterns of segregation.
3. Ensure housing habitability and maintenance.
4. Meet housing needs by providing a variety of housing choices throughout the city.

The goals have been substantially reorganized from the 2015 Housing Element, with a greater focus on fair housing and resources for lower income households. As with the other elements of General Plan 2040, a set of policies follows each goal. The policies are intended to provide broad guidance for future decision-making over the eight-year planning period. Each of the goals is also followed by a series of housing programs, which include more prescriptive direction as well as an assessment of resources, a timetable for implementation and metrics to measure future success.

Programs are summarized below. Chapter 6 of the Draft Housing Element has additional detail. Each of the programs listed below includes a narrative description of the program, specific actions to be taken, a timeline for those actions, the responsible City department or division, the resources available to undertake the action, and the relevant housing policies that are implemented through the program.

Programs to End and Prevent Homelessness

1. Create a Housing and Homelessness Division within the Community Development Department.
2. Require rental property owners to provide relocation assistance to low-income tenants in no-fault evictions.
3. Expand housing resources and supportive services for extremely low-income households.
4. Actively seek funding for strategies that prevent homelessness and help San Rafael residents experiencing homelessness in securing a place to live and access to the services they require.
5. Provide emergency shelter capacity sufficient to meet local needs.

Programs to Combat Housing Discrimination, Eliminate Racial Bias, and Undo Historic Patterns of Segregation

6. Expand awareness of housing laws, programs, and resources provided by the City and by other agencies and organizations through a comprehensive, multi-lingual community outreach and engagement initiative.
7. As part of the Cooperative Agreement with the County on CDBG funding, direct a portion of the City's allocation to a local fair housing assistance program.
8. Affirmatively market local affordable housing opportunities to include groups that have historically been disadvantaged in the local housing market.

9. Undertake a capacity-building and educational program designed to increase understanding of the housing system by the City's Latinx community.
10. Collaborate with Marin County, cities and towns to address regional planning and housing issues. Remain open to alignment in service delivery to increasing housing supply and furthering fair housing.
11. Maintain and monitor effectiveness of local just cause for eviction regulations.
12. Evaluate existing and additional measures to protect tenants from eviction or the loss of housing due to economic or other factors.

Programs to Ensure Housing Habitability and Maintenance

13. Continue and strengthen the Periodic Housing Inspection Program to ensure the safety and habitability of the rental housing stock.
14. Provide effective code enforcement efforts in all neighborhoods to abate unsafe or unsanitary conditions. Organize service delivery around principles of equity and inclusion.
15. Continue residential building inspections at the time of sale to ensure the safety and habitability of units.
16. Support lower income households in maintaining their homes and increase their ability to participate in and reap the benefits of housing sustainability initiatives.

Programs to Increase Housing Choice

17. Increase funding for affordable housing through the City's Affordable Housing Trust Fund and other sources.
18. Maintain affordable housing requirements for market-rate residential and commercial developments. Monitor the policy's effectiveness and periodically revise to reflect changing housing market conditions.
19. Apply for designation as a "Pro-Housing City" by the State of California.
20. Develop an official City process for developing housing in air rights on municipally-owned sites, including Downtown municipal parking lots (i.e., an "air rights strategic plan"). The process should support and promote public-private partnership opportunities that result in new housing on these sites.
21. Prepare a Precise Plan (or equivalent planning document) for the North San Rafael Priority Development Area (PDA).
22. Prepare a Precise Plan (or an equivalent planning document) for the Southeast San Rafael Priority Development Area (PDA).
23. Provide periodic updates on progress toward Housing Element implementation and other City Council and community housing priorities.
24. Maintain capacity to meet the RHNA at all times during the 2023-2031 planning period and add new sites as opportunities arise. Make the list of housing opportunity sites (Appendix B) available to prospective developers and the public.
25. Develop a list of sites located along commercial corridors that could be prime for "by right" development under Assembly Bill 2011 (AB 2011).
26. Adopt objective design and development standards (ODDS) to expedite project approvals for all "by right" multifamily housing projects.

27. Expand resources and reduce barriers for the construction of ADUs and Junior ADUs (JADUs) in San Rafael neighborhoods.
28. Implement Senate Bill 9 (SB 9) regulations and update the website with information to support property owners pursuing lot splits and duplexes on qualifying single-family lots.
29. Support housing development on institutional and religious properties.
30. Discourage conversion of residential units to non-residential uses, and limit loss of rental housing stock. Encourage conversion from commercial/office space back to residential use.
31. Monitor the status of affordable units created through local inclusionary housing requirements to ensure that they are occupied by qualifying households and rented or sold at affordable rates.
32. Implement Age-Friendly San Rafael Strategic Plan recommendations.
33. Create additional housing resources for persons with disabilities, including developmental disabilities.
34. Facilitate the development of large and small residential care facilities in San Rafael.
35. Creative incentives that result in a larger percentage of apartments that are three bedrooms or more in affordable housing developments.
36. Review and update the master fee schedule periodically to reflect the costs of delivering City services and to reduce fee burdens for affordable housing projects, where possible.
37. In response to feedback received during past developer and community forums, provide an update on the changes made to reduce costs, time delays, and other barriers to housing development. Measure the success of these changes.
38. Implement State and local density bonus programs, including allowances for additional height and concessions and waivers to development standards for projects with affordable housing.
39. Establish written procedures so that projects with affordable housing units are granted priority for water and sewer connections in the event of future service limitations.
40. Implement measures to streamline the development approval process and reduce the time required between project proposal and project entitlement.
41. Complete strategic revisions to the San Rafael Zoning Ordinance to better achieve Housing Element objectives (see discussion in next section of this staff report).
42. Complete an evaluation of residential off-street parking standards to reduce parking as a housing development expense. This should include the removal of minimum parking standards within one-half mile of SMART stations and high-frequency bus corridors.

Chapter 6 concludes with a summary of quantified objectives for the programs (including objectives for housing production and conservation). It also indicates the extent to which programs address specific AFFH themes identified by HCD, including fair housing outreach and enforcement, housing mobility, new opportunities in high resource areas, place-based strategies for neighborhood improvement, and tenant protection and anti-displacement. Guidance from HCD now requires metrics for many of the programs (number of units built, number of residents assisted, etc.) so that each jurisdiction's progress can be monitored over time.

Zoning Changes and Future Zoning Studies

As noted earlier in this report, the City of San Rafael already has zoning in place to meet the RHNA. No rezoning is required to accommodate the City's 3,220-unit assignment.

The Housing Element does propose the rezoning of one parcel that is currently zoned "Light Industrial-Office", a change that was already anticipated by General Plan 2040 and would help the City maintain a "buffer" of extra capacity for higher-density housing. The parcel is 401 Merrydale (APN 179-041-05) and contains a self-storage business. It is just under an acre in size and would be rezoned to "Office." The "Office" zoning matches the General Plan designation for this property and allows maximizes flexibility for the property owner by allowing both commercial development as well as residential development at 43 dwelling units per acre. In this case, the site is adjacent to the Civic Center SMART station. General Plan 2040 describes this property and the adjacent Public Storage property at 380 Merrydale (APN 179-041-022, zoned PD) as opportunities for transit-oriented development. The properties were previously envisioned as housing opportunities in the 2013 Civic Center Station Area Plan. They were presumed to be high-density housing by the General Plan 2040 EIR. No other rezoning is proposed as a part of the Housing Element update.

In addition to the map change described above, Draft Housing Element Program 43 calls for several future zoning studies that could increase the City's residential capacity. The zoning changes described below are not required to meet the RHNA but would be beneficial in expanding housing opportunities in "high-resource" areas. These studies include:

- Considering an increase in the allowable density in the Neighborhood Commercial zone (currently 24.2 units/acre, whereas all other commercial zones allow 43.5 units/acre)
- Considering increases to the allowable density in the HR-1.5 and HR-1.8 (High-Density Residential zoning) districts. These districts currently allow 29 units/acre and 24.2 units per acre respectively, but are in a General Plan designation that allows up to 43.5 units/acre. Currently only the HR-1 district allows 43.5 units/acre.
- Considering increases to allowable building heights for mixed use or residential projects in the General Commercial zoning district (currently limited to 30 feet or 36 feet)
- Considering modifications to setback, height, and lot coverage standards for mixed use or residential projects in the Office zoning district (the standards envision office development, rather than housing)
- Allowing Low-Barrier Navigation Centers in mixed use zones, as required by State law (AB 101).

Other Relevant Legislative Requirements

Since the time the last Housing Element was adopted (2015), the State has adopted legislation that trigger amendments to the General Plan upon adoption of the 6th Cycle Housing Element. Because the City of San Rafael adopted an updated General Plan in August 2021, most of these requirements have been satisfied and amendments are not required. However, the City will need to amend its Safety Element in 2023 to identify evacuation routes and to map developed areas of San Rafael that have only one means of ingress and egress.

SB 1000 was adopted in 2016 and requires that cities with "disadvantaged communities" (as defined by the State) include an Environmental Justice Element in their General Plans. The City of San Rafael met this requirement by including an Equity, Diversity, and Inclusion Element in its 2040 Plan.

SB 99 required that cities adopting Housing Elements from 2020 onward must amend their Safety Elements to "identify residential development in hazard areas that do not have at least two emergency

evacuation routes.” These include fire hazard areas, flood-prone areas, and areas subject to seismic hazards. While General Plan 2040 includes maps showing the extent of these hazards, it does not specifically map areas with less than two points of ingress/egress.

AB 747 went into effect in 2020 and requires that Plan updates adopted after January 1, 2022 (including the Housing Element) include a review of evacuation routes and their capacity, safety, and viability under a range of emergency scenarios. The City of San Rafael will need to add this review to General Plan 2040 and its Local Hazard Mitigation Plan in 2023.

Schedule

The HCD Draft Housing Element was published on November 4, 2022. As explained previously, a 30-day public review period is required by State law and will end on December 5, 2022. The City Council is considering the Draft Housing Element on December 5, 2022. Comments received through the end of the December 5, 2022 meeting (including comments from the Council and oral testimony from the public received at the meeting) will be considered prior to submitting the draft to HCD.

The City is statutorily required to allow 10 business days after the 30-day period to consider the public’s comments and make edits in response. Thus, submittal of the edited Draft is projected by December 19, 2022. The State has up to 90 days to issue its review letter following receipt of the document.

As noted earlier in this report, the deadline for Housing Element adoption is January 31, 2023. The implications of not having an adopted Housing Element by January 31, 2023 include potential application of the so called “Builder’s Remedy” under the Housing Accountability Act. In general, under the Builder’s Remedy housing projects with a certain level of affordability have to be allowed “by right.” Once the State comments are received on the Draft Housing Element, the City will make necessary edits, and return to the Planning Commission with a resolution recommending City Council adoption of the Housing Element as well as recommendations on associated zoning code and zoning map amendments. Once adopted, the Final Housing Element will be resubmitted to the State for a compliance determination.

If HCD has not certified the City’s Housing Element within 120 days following January 31, 2023, then the City must complete all rezonings required by the Housing Element by January 31, 2024. San Rafael’s zoning is largely in place and the City would not be impacted by this requirement. However, it is in the City’s best interest to remain in compliance and adopt the Element as quickly as possible after receiving State comments.

As of November 17, four cities in Marin County have submitted their Draft Elements to the State. Only the County of Marin has received its comment letter. Three cities (including San Rafael) have released their drafts and four cities anticipate publication in the coming months. Only two jurisdictions in the Bay Area (Alameda and Emeryville) have been found in compliance for the 2023-2031 cycle at this time. In the Los Angeles region, where the deadline for Housing Elements was more than one year ago, only 40 percent (79) of the 197 jurisdictions have been found in compliance.

Planning Commission Feedback

As noted above, the Planning Commission convened a public meeting on the HCD Draft Housing Element on November 15, 2022. The Commission expressed their support for the document and its policies and programs and adopted a resolution recommending Council adoption. There were two public speakers at the meeting—one expressing concern regarding the density of proposed development at Northgate Mall and one suggesting expanded availability of housing vouchers to close the gap between affordable and market-rate rents. The Commission’s comments addressed:

- the importance of programs for unhoused residents and residents at risk of homelessness
- the delivery of services for people experiencing homelessness (City vs County role)
- opportunities for affordable housing in “high resource” neighborhoods
- recent issues related to renter displacement in the Canal neighborhood
- the need to address infrastructure needs and issues as the city grows
- the impacts of new energy codes on housing costs
- recognition that generational wealth is needed for home ownership.

COMMUNITY OUTREACH:

The December 5 City Council public hearing was advertised in the Marin Independent Journal and also publicized with a notice to stakeholders, agencies, and special interest groups. The meeting was preceded by a Planning Commission public hearing on November 15 that was similarly noticed. The City also has a Housing Element email list with approximately 1,100 addresses receiving notification of the availability of the Housing Element and the related public meetings.

The Housing Element itself is the product of an intensive public outreach program that included three community workshops, eight Working Group meetings, eight briefings to Planning Commission and City Council, a resident survey, a developer forum, focus groups, interviews, a youth/school program, and presentations to multiple neighborhood groups and community-based organizations.

ENVIRONMENTAL REVIEW:

As a General Plan amendment, the Housing Element update is subject to the California Environmental Quality Act (CEQA). An addendum may be prepared to a previously certified Final EIR by a Lead Agency (City of San Rafael) when changes or additions are needed, provided that these changes do not trigger conditions requiring preparation of a Subsequent EIR or other form of environmental review. No public notice is required for an Addendum and an Addendum does not need to be circulated for public review. The Addendum will be considered concurrently with the Public Review Draft Housing Element in early 2023.

FISCAL IMPACT:

The Housing Element is a policy document and does not have a direct fiscal impact on the city. Future programs developed as a result of HE2023-2031 adoption could have fiscal impacts by identifying programs requiring funding. Other HE2023-2031 programs may have positive fiscal impacts by identifying new revenue sources or improving the City’s eligibility for grants and other funds. Conversely, the absence of a certified Housing Element would have adverse fiscal impacts, as the City would become ineligible for numerous state grants and funds and potentially vulnerable to lawsuits and fines.

RECOMMENDED ACTION:

Direct staff to submit the HCD Draft 2023-2031 San Rafael Housing Element to the California Department of Housing and Community Development for their initial review and comment.

ATTACHMENTS:

1. The HCD Draft 2023-2031 San Rafael Housing Element may be accessed online at: <https://www.cityofsanrafael.org/hcd-draft-housing-element-2022-2023/>
2. Correspondence

November 30th, 2022



Alicia Giudice, Director
Community Development Department
City of San Rafael
1400 5th Avenue
San Rafael, CA 94901
Email: alicia.giudice@cityofsanrafael.org; city.clerk@cityofsanrafael.org

Subject: City of San Rafael Draft Housing Element

Dear Ms. Giudice:

Thank you for the opportunity to review and submit comments on the City of San Rafael Draft Housing Element. The Marin Conservation League (MCL) acknowledges that development and adoption of a Housing Element is critical and important in this pivotal time of balancing the need for housing and the growing consequences of climate change.

MCL is an environmental organization, and housing is not its principal focus. Nonetheless, MCL follows its current policy position on housing, which is to: a) support a balance of commercial development and workforce employment with needed housing; b) avoid sprawl; c) correspond to the service capacity of Marin's infrastructure; and d) protect specific areas of environmental importance. As a result of the State's housing crisis, in the past five years there have been dramatic changes in mandated housing laws to promote housing development. These new laws prescribe public review processes that promote streamlining and "by-right" (ministerial) permitting processes. To fully understand these new housing laws, in January 2022, MCL hosted "MCL After Hours – The Impacts of the New State Housing Laws." This event was intended to educate interested attendees on the recent State housing laws and how they affect the review and development of housing at a local level in Marin County. Consequently, with the many changes in the housing laws, MCL is in the process of updating its housing policy position.

MCL has reviewed the Draft Housing Element for alignment with its adopted policy positions on, among others, housing, flooding/sea level rise, greenhouse gas emissions, and wildfire management. Further, the draft document has been reviewed for alignment with MCL's longstanding mission, which is, *"To preserve, protect and enhance the natural assets of Marin in a changing environment."* MCL respectfully submits the following comments, which factor in the recent changes in State housing law:

1. Housing Needs Assessment (Chapter 3).

San Rafael's Regional Housing Needs Assessment (RHNA) for the next 8-year cycle is 3,220 housing units, which is triple the 2014-2022 RHNA of 1,007 units. As is the case with other Marin jurisdictions, the greatest need has been identified in the extremely low-/very

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Marin Conservation League was founded in 1934 to preserve, protect and enhance the natural assets of Marin County.

low- and low-income household categories. Unlike many of the Marin cities/towns, San Rafael has adequate sites for higher-density zoning, which has proven to be necessary to feasibly finance lower-income housing development.

2. The needs assessment notes that a big challenge is keeping the existing rental housing affordable over time to serve the low-wage earner and to keep these earners living locally. San Rafael has the only federally designated “Opportunity Zone” in Marin County, which covers a large portion of the Canal neighborhood. Opportunity Zones are structured to promote private investment in aging property through incentives, which could result in higher rents, resident displacement, and gentrification. MCL acknowledges that this is a social equity and economic issue, but the fallout of resident displacement also has environmental consequences. Specifically, if existing lower income residents are displaced, they are forced to relocate to areas where there is more affordable housing. Increased travel from home-to-work results in increased greenhouse gas emissions. Preserving the existing housing stock and planning for new housing opportunities to accommodate the lower-wage workforce will promote a more sustainable balance in jobs and housing within the County, which will reduce the environmental impacts associated with climate change.
3. Housing Opportunity Sites and Resources (Chapter 4).
This chapter is comprehensive and includes a detailed discussion of, among others, housing opportunity sites, accessory dwelling unit (ADU) forecasts, and energy and financial resources. MCL favorably acknowledges that the City publicly-vetted a preliminary housing opportunity site inventory this past summer, prior to release of the Draft Housing Element. The initial preliminary inventory presented sites to accommodate 5,393 housing units. Based on comments from the City Planning Commission and public, the preliminary inventory was revised resulting in a reduced number of sites to accommodate a potential of 4,858 housing units. MCL appreciates that the updated housing opportunity site inventory: a) presents more realistic expectations; b) generally carries over the housing expectations of the recently adopted San Rafael General Plan 2040; and c) acknowledges some individual, site-specific environmental conditions and constraints that must be considered when planning for development.

Some of the higher density opportunity sites are located in the Federal Emergency Management Agency (FEMA) flood hazard zone and are vulnerable to projected sea level rise. These sites are located in fully developed areas and are surrounded by development. For these vulnerable areas, areawide adaptation planning is paramount. Nonetheless, for site development review in these areas, it is expected that the City will follow through on implementing General Plan 2040 Program S-3.5A: Code Amendments for Floor Elevation. This program prescribes that the City has committed to update and adopt zoning, building and public works code requirements to establish and mandate a minimum finished floor elevation for new development, redevelopment, and substantial additions to existing development. The program suggests adopting a minimum, finished floor elevation requirement of +3 feet above the FEMA 100-year flood elevation requirement.

4. Constraints to Housing Production (Chapter 5).

This covers a discussion of a number of governmental and non-governmental topics that have the potential to create constraints for housing development. MCL would like to thank the City for including a discussion of environmental and infrastructure issues. As noted in this chapter (and in comments above), the housing site inventory acknowledges some individual, site-specific environmental conditions and constraints that must be considered when planning for development. While general, this information is enough to provide the City decision-makers and the public with known environmental issues and an understanding of site challenges.

5. Housing Action Plan (Chapter 6).

The draft policies and programs are well written to cover all housing laws. MCL supports the following policies and programs, which are in alignment with our mission and adopted policy position statements:

- a. Policy H-2.8: Fair Housing and Transportation Choice. Work with local transportation agencies and transit service providers to sustain, and where possible expand, transportation choices for San Rafael residents, particularly lower-income renters who are transit-dependent.
- b. Policy H-3.3: Resilient Housing. Improve the resilience of housing and residential neighborhoods to the effects of climate change, including sea level rise, increased wildfire risks, extreme heat, and drought.
- c. Policy H-3.5: Housing and Greenhouse Gas Emissions. Design and locate new housing in a way that supports the city's greenhouse gas reduction goals.
- d. Policy H-3.6: Sustainable Design. Encourage the use of building materials, construction methods, and designs that reduce environmental impacts and the consumption of non-renewable resources.
- e. Policy H-4.2: Preventing Displacement. Prevent the displacement of lower income residents due to expiring housing subsidies, rising costs, evictions without cause, conversion of housing units to non-residential use, and other factors that make it difficult for people to stay in San Rafael.
- f. Policy H-4.15: Housing and Infrastructure. Coordinate with water, sanitary sewer, and dry utility service providers to ensure that infrastructure is available to support anticipated housing development.
- g. Program 21: Precise Plan for North San Rafael. Prepare a Precise Plan (or equivalent planning document) for the North San Rafael Priority Development Area (PDA).
- h. Program 22: Precise Plan for Southeast San Rafael. Prepare a Precise Plan (or an equivalent planning document) for the Southeast San Rafael Priority Development Area (PDA).
- i. Program 27: Accessory Dwelling Units (ADUs) Expand resources and reduce barriers for the construction of ADUs and Junior ADUs (JADUs) in San Rafael neighborhoods.
- j. Program 30: Conversion of Residential and Non-Residential. Discourage conversion of residential units to non-residential uses, and limit loss of rental housing stock. Encourage conversion from commercial/office space back to residential use.

CEQA Review for Draft Housing Element

The various reports published on the Draft Housing Element indicate that the required California Environmental Quality Act (CEQA)/environmental review for the Housing Element will be addressed in an “Addendum” to the recently certified San Rafael General Plan 2040 environmental impact report (EIR). The General Plan 2040 EIR considered cumulative impacts for the addition of over new 4,000 units in preparation of this subsequent, Housing Element update. Substantial new housing is planned for in Downtown (under the Downtown Precise Plan), as well as several other sites/areas such as Northgate Mall. The EIR Addendum may be appropriate as the General Plan 2040 anticipated and planned for new housing, and the supportive EIR is a recent document, and a very detailed one. However, MCL reserves the right to review the EIR Addendum when it is completed and available for review.

Of particular concern is how the CEQA document will address housing projects that are eligible for the “by-right” review process, which are exempt from environmental review. While the state housing laws covering “by-right” review acknowledge some environmental topic areas under CEQA to determine site eligibility and project review (e.g., federally designated wetlands, FEMA flood plain zone, historic and cultural resources), it does not cover or address all environmental topic areas that are covered under CEQA. One example is air quality. Low-, medium-, and high-density residential uses are considered sensitive receptors. Sensitive receptors are subject to air-pollutant related health risks. A number of the housing sites on the Site Inventory are within 500 feet of US 101, which is a source of cancer-causing pollutants. Some of these sites might be eligible for the “by-right” review process. For housing projects being processed through the conventional, discretionary planning process, a health-risk assessment would be required to assess future resident exposure to air pollutants. Such an assessment would not be required for a project seeking “by-right” review. This type of void should be acknowledged in the Addendum text and could be addressed in possible amendments to the City’s SB35 and SB9 ordinances, and, where appropriate, in the accompanying “objective design standards.” Regarding the latter, MCL encourages the City to complete and adopt its draft objective design standards. In doing so, it is encouraged that the City look to how the County’s objective standards (“ODDS”) anticipate what they may be able to, and want to, protect when the by-right review process is in effect.

Thank you for this opportunity to comment this critical policy planning document.

Yours truly,



Robert Miller
President



Paul Jensen
Board Member



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 3.b

Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

Prepared by: Alicia Giudice
Community Development Director

City Manager Approval: _____

TOPIC: ALDERSLY RETIREMENT COMMUNITY PROJECT

SUBJECT: APPROVAL OF ACTIONS AS RECOMMENDED BY THE PLANNING COMMISSION FOR THE PHASED DEVELOPMENT OF NEW BUILDINGS AND OTHER IMPROVEMENTS, AND DEMOLITION OF EXISTING BUILDINGS ON THE ALDERSLY RETIREMENT COMMUNITY PROPERTY, INCLUDING 14 ADDITIONAL INDEPENDENT LIVING UNITS ON A 2.9 ACRE SITE LOCATED AT 326 AND 308 MISSION AVENUE:

- i. **RESOLUTION CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE ALDERSLY PLANNED DEVELOPMENT AMENDMENT PROJECT**
- ii. **INTRODUCTION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DEVELOPMENT DISTRICT (PD 1775) TO PLANNED DEVELOPMENT DISTRICT (PD) AND DEVELOPMENT PLAN INCLUDING 14 NET NEW INDEPENDENT LIVING UNITS FOR THE 2.9-ACRE SENIOR RETIREMENT COMMUNITY SITE LOCATED AT 308 AND 326 MISSION AVENUE**
- iii. **RESOLUTION APPROVING THE MASTER USE PERMIT AMENDMENT (UP20-022) AND ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED20-051) FOR THE ALDERSLY RETIREMENT COMMUNITY AT 308 AND 326 MISSION AVENUE (APN 014-054-31 and 32)**

RECOMMENDATION:

It is recommended that the City Council take the following actions:

1. **Resolution Certifying the Final Environmental Impact Report, Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for the Aldersly Planned Development Amendment Project**

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

2. Waive further reading of the ordinance and refer to it by title only, and introduce an Ordinance of the City of San Rafael City Council Approving a Planned Development Rezoning from Planned Development District (PD 1775) to Planned Development District (PD) and Development Plan Including 14 Net New Independent Living Units for the 2.9-Acre Senior Retirement Community Site Located at 308 and 326 Mission Avenue
3. Resolution Approving the Master Use Permit Amendment (UP20-022) and Environmental and Design Review Permit (ED20-051) for the Aldersly Retirement Community at 308 and 326 Mission Avenue (APN 014-054-31 and 32)

EXECUTIVE SUMMARY:

The Aldersly Retirement Community occupies 2.9 acres on the north side of Mission Avenue and extending to Belle Avenue to the north. The project proposes improvements in three phases that include demolition and renovation of existing buildings, and construction of new buildings on the Aldersly campus, including the addition of 14 net new independent living units.

The project proposes a rezoning of the property from Planned Development District (PD1775) approved in 2002 to a new Planned Development District (PD) with new (revised) PD Development Regulations to accommodate the proposed Development Plan that provides the flexibility to meet future needs of its residents with updated, state of the art facilities. The project is also subject to a Master Use Permit as required by San Rafael Municipal Code (SRMC) §14.07.020.B because it proposes a phased development in a Planned Development District; and an Environmental and Design Review Permit because modifications to existing structures and major physical improvements are proposed. With the approval of revised Planned Development (PD) District Regulations, the project is consistent with the Zoning Ordinance and General Plan.

The project has been reviewed and recommended for approval by the Design Review Board and Planning Commission. Staff believes the findings required to approve the project, including findings required by the California Environmental Quality Act (CEQA), can be made.

BACKGROUND:

Starting in 2017, the applicant initiated their engagement with the surrounding community and in July 2019, a two-day design charrette was held with Aldersly residents, staff and neighbors in attendance.

In October 2019, the applicant submitted a Pre-Application and in June 2020 a Conceptual Design Review application was submitted. On August 5, 2020, the Design Review Board sub-committee offered comments regarding:

- Parking is a concern given the addition of 14 new units. Buildout should include additional on-site parking. A parking study should be undertaken if not required.
- Landscaping will be important, particularly along the Mission Avenue frontage.
- Stormwater drainage requirement, including bioretention planters and permeable pavers, shall be evaluated and included in the plans;
- Massing will be important, particularly along the Mission Avenue frontage. Consider mass-reducing techniques such as upper-story stepbacks and material and color choices.

On November 2020 the applicant filed formal applications with the City. The project applications were deemed complete in March 2021.

In May 2021 the project was presented to the Montecito Area Residents Association (MARA) and the applicant conducted a virtual neighborhood meeting on June 9, 2021, via Zoom. Subsequent meetings with MARA were held during the project review process.

At the [October 5, 2021 Design Review Board meeting](#), the Board reviewed the project and following discussion, the Board voted to continue the item to allow the applicant time to respond to address the following:

- Find ways to reduce imposing façade of building along Mission Avenue through architectural stepbacks, other features, or an increased setback.
- Make an effort to reduce bioswales along Mission to allow increased tree screening of buildings and parking.

The applicant presented the following revisions at the [December 7, 2021 Design Review Board meeting](#):

- Revisions to Mission Avenue Independent Living building include:
 - Utilizing more vertical elements to break up the south façade;
 - Changing the form and material to break the roof line;
- Changing the colors and materials of the center portion of the building in order to break up the mass.
- Revisions to Bioretention Areas and Landscape Plan;
- Redistribution of bioretention areas on the site that allow for additional trees to be planted between the Mission Avenue Independent Living building and Mission Avenue Right of way (ROW).

Following discussion, the Board recommended approval of the project with the above revisions, all of which are reflected in the project plans and addressed in the proposed conditions of approval as appropriate.

At the public hearing held on [November 15, 2022](#), the Planning Commission recommended approval of the project, with comments about the project's conformance with general plan policies related to historic resources.

PROJECT DESCRIPTION:

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 to Belle Avenue. The campus is fully developed with residential, administrative, and healthcare buildings connected by an extensive network of landscaped pedestrian paths and gardens. The area surrounding the Aldersly campus contains a mix of residential, retail, and community services.

The project proposes a rezoning of the property from Planned Development District (PD1775) approved in 2002 to a new Planned Development District (PD) with new (revised) PD Development Regulations to accommodate the proposed Development Plan that provides the flexibility to meet future needs of its residents with facilities. The proposed project includes improvements to campus connectivity, renovations to current facilities, expansion of some buildings, and new construction. The overall goal of the project is to keep Aldersly a boutique residential community for older people looking for a home with hygge (pronounced "hoo-gah") – Danish for the experience of coziness and comfortable conviviality that engenders feelings of contentment and well-being.

In addition, the project is subject to a Master Use Permit as required by San Rafael Municipal Code (SRMC) §14.07.020.B because it proposes a phased development in a Planned Development District. The Master Use Permit, if approved, would supersede the Master Use Permit approved in 2002. An

Environmental and Design Review Permit is also required by SRMC §14.25.040.A.2 and A.3 because modifications to existing structures and major physical improvements are proposed.

A more complete project description can be viewed in the [November 15, 2022 Staff Report](#) to the Planning Commission. The complete plan set can be found on the project website: [Part 1](#), [Part 2](#), and [Part 3](#). Below is a summary of the key elements of the project:

Use: The existing use of the property is a retirement community consistent with the approved PD1775, and would remain the same under the proposed new Planned Development District. Aldersly would continue to provide a mix of Assisted Living/Memory Care, Skilled Nursing, and Residential/ Independent Living units for older adults. The project would result in a net increase of +14 Independent Living units (an increase from 55 units to 69 units). The permitted use is specified in the proposed Planned Development regulations (Exhibit B to Attachment 2).

Housing Units and Affordability: The project would contribute toward meeting the goal of producing more housing by adding 14 senior housing units to the City's housing inventory and would help meet the City's regional housing needs allocation (RHNA). Since all of the proposed 14 independent living units would include a kitchen and a bathroom, they meet the definition of a dwelling unit and have been included in the anticipated number of units to be completed during the 2023-2031 timeframe. As conditioned, the project would comply with the City's affordable housing requirement by paying an in-lieu Affordable Housing Fee in accordance with SRMC Section 14.16.030.

Site Plan: The project proposes improvements in three phases that include demolition and renovation of existing buildings, and construction of new buildings on the Aldersly Campus. Buildout of the proposed Development Plan would result in a new four-level Independent Living building along Mission Avenue, a new Independent Living building on the western portion of the site, a new service building on the north portion along Belle Avenue, three renovated/reconfigured buildings, and new outdoor spaces including a memory care garden, activity lawn, and rose terrace.

Access: Vehicle access to the site would remain substantially the same as existing, except that the existing driveway to Rosenborg parking garage (east driveway) would shift approximately 30 feet to the east toward Union Street, and new parking spaces, landscaping and solid fencing would be created along the east property line. The project also includes a new fully accessible entrance to the campus as part of the new Independent Living building on Mission Avenue.

Delivery and Loading Areas: Truck Delivery access would continue to be provided on Belle Avenue. The existing loading and delivery area on Belle Avenue would remain and would continue to accommodate all deliveries through Phase 1. After completion of Phase 2, a new delivery area for medium-size trucks would be provided as part of the new service building. The number and type of trucks used for deliveries to the Aldersly campus are not expected to change.

Architecture: The proposed new buildings have been designed to be visually compatible with the buildings that will remain on the campus. The exterior materials used for new buildings include brick and wood cladding, large expanses of glass, and rectilinear massing, consistent with the existing buildings on the campus. Consistent with the recommendation of the Design Review Board, vertical elements are used to break up the south façade of the Mission Avenue Independent Living building and changes in materials and building form are used to break up the building mass.

Building elevations are provided on Sheets A5.1-R, A5.1A-R and A5.2 of the [project plan set](#). Perspective drawings of the proposed project are shown on Sheets A5.4-R, A5.5-R, and A5.6 of the [project plan set](#).

Landscaping: Aldersly has extensive landscaping and a lush garden setting that contributes significantly to the aesthetics of the property and the neighborhood. The project would require the removal of mature trees and other landscaping to make way for new buildings. An inventory of existing trees on the property identifies trees proposed to be removed at each phase of site development. A total of 77 trees are proposed to be removed; most of them non-native, ornamental species (Japanese maple, juniper, Crape myrtle, flowering plum, fruiting and fruitless mulberry), and one large palm tree along Mission Avenue is proposed to be relocated. Tree removal would occur gradually over many years as required to make way for the phased development, and many existing trees would remain. A tree protection plan is included as part of the master landscape plan, which includes a variety of trees, shrubs and groundcover as shown on the master landscape plan (Sheets L1.2 - L6.1-R of the [project plan set](#)). Special attention was given to the streetscape along the proposed Mission Avenue Independent Living building. The proposed landscape plan is consistent with the historic emphasis on Aldersly's indoor-outdoor experience.

Grading/Drainage/Water Quality: Currently, runoff from the Project site is conveyed to the existing storm drain system in Mission Avenue. The County of Marin and the City of San Rafael require any increased runoff from be discharged and filtered onsite. To reduce the impact of storm runoff, the project proposes to convey roof gutter drainage to infiltration planters for onsite treatment before being directed and discharged into the City's storm drainage system at street curbs. Conditions of project approval recommended by the Department of Public Works require the submittal of documents including a hydrology study, Stormwater Control Plan to demonstrate conformance with Bay Area Stormwater Management Agencies Association (BASMAA) and Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements.

ANALYSIS:

A complete analysis of the project's consistency with the applicable plans, regulations and policies can be found in Exhibit 5 of the [November 15, 2022 Staff Report](#) to the Planning Commission.

General Plan 2040 Consistency:

The project has been reviewed for consistency with the San Rafael General Plan 2040. The site is designated as High Density Residential on the General Plan 2040 Land Use Map, which allows for the mix of independent living, assisted living and convalescent care. As noted above, the project also furthers the goal of providing additional housing. There are numerous general plan policies and programs that are pertinent to the site and the project. The General Plan contains many competing policies that need to be weighed and considered. Consistency with a General Plan is determined by reviewing and weighing the goals and policies of all elements of the San Rafael General Plan 2040. Staff has evaluated the project and found it to be consistent, or consistent with conditions, for the applicable San Rafael General Plan 2040 Policies and Programs, including the following Elements: Land Use, Housing, Community Design and Preservation, Conservation and Climate Change, Noise, Mobility, Community Services and Infrastructure, and Equity Diversity and Inclusion. On balance, the proposed project would be consistent with the pertinent policies and programs of the General Plan 2040.

Zoning Ordinance Consistency:

The proposed land use is consistent with the proposed Planned Development (PD) zoning. As noted in the [November 15, 2022 Staff Report](#) to the Planning Commission, the proposed (amended) PD Regulations are essentially the same as those approved with PD1775 (same setbacks, building height limit, lot coverage, etc.) but with changes to reflect the proposed Development Plan.

California Environmental Quality Act:

The project is subject to environmental review. A Final Environmental Impact Report (Final EIR) has been prepared in compliance with the California Environmental Quality Act (CEQA). The Final EIR is comprised of the Draft EIR together with the Response to Comments document that contains the following: (1) a list of persons, organizations, and public agencies commenting on the Draft EIR; (2) copies of comments received on the Draft EIR; (3) the City's responses to those comments; and (4) revisions to the Draft EIR to clarify or correct information. The Final EIR must be certified by the City Council before the project can be approved.

CEQA also requires the adoption of findings prior to project approval in cases where the certified EIR identifies significant environmental effects (CEQA Guidelines §§15091 and 15092) and a MMRP (§15097). The findings must include a statement of overriding considerations for any impact identified in the EIR as a significant adverse impact that cannot be mitigated to a less-than-significant level (CEQA Guidelines §15093[b]). Draft CEQA findings are included in the proposed Resolution for certification of the Final EIR (Attachment 1).

The Final EIR identifies one significant and unavoidable adverse impact on Historic Resources that would result from the Project. This impact can be reduced, although not to a less-than-significant level, through implementation of Mitigation Measure CUL-1 identified in the Final EIR. That would require Aldersly to undertake measures to document and provide interpretation, commemoration, and salvage of the historic resources prior to any demolition. This would reduce the impact on historic resources, but not to a less than- significant level. Therefore, the impact would remain significant and unavoidable. All other environmental impacts would be avoided or less than significant with implementation of mitigation measures, including impacts related to air quality, biological resources, cultural resources (archeology), tribal cultural resources, geologic/paleontological resources, and noise. All adopted mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) to ensure CEQA compliance during Project implementation.

COMMUNITY OUTREACH:

As noted above, the applicant initiated their engagement with the surrounding community in 2017 and met with the Montecito Area Residents Association (MARA) to share their preliminary plans and seek input from the surrounding community. In addition, Aldersly held in-person meetings early on to reach the Montecito/Happy Valley neighbors and solicit input on their plans. Since 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
- MARA special meeting held via Zoom on January 27, 2022
- MARA special meeting held via Zoom on May 16, 2022

Notice of all public hearings on the project, for the Design Review Board and Planning Commission (15-day notice), the Draft EIR (CEQA) public comment period (45-day review) and the City Council hearing (15-day notice) were conducted in accordance with public review period and noticing requirements contained in the Zoning Ordinance. All notices of public meeting or hearing were mailed to all property owners and occupants within a 300-foot radius of the subject site, the Dominican/Black Canyon Neighborhood Association, the Federation of San Rafael Neighborhoods, the Montecito Area Residents Association, and all other interested parties, at least 15 days prior to each meeting or hearing. In addition, notice of each meeting/hearing was posted on the subject site at least 15 days prior to the date of each meeting or hearing.

CHANGES SINCE PLANNING COMMISSION REVIEW:

As discussed during the Planning Commission hearing on November 15, 2022, the applicant has been working with the property owner of 304 Mission Avenue (corner of Mission Avenue and Union Street)

regarding the continued use of a portion of property owned by Aldersly. During the applicant's presentation to the Planning Commission, it was noted that an agreement has been reached with the property owner of 304 Mission Avenue, which would allow for the property to continue to be used as part of the outdoor space of 304 Mission Avenue. The applicant has submitted a schematic drawing that shows the area and the changes to the site plan. It is staff's opinion that this change would be beneficial to the adjacent neighbors east of the Aldersly campus and it would have minimal effect on the overall project site plan. However, this change would result in two fewer on-site parking spaces being added. Instead of eight (8) spaces being added as part of the project, an additional six (6) parking spaces would be added, for a total of 54 parking spaces rather than 56 on-site spaces. The six additional on-site parking spaces would be sufficient to meet the additional parking demand associated with the proposed project (14 additional Independent Living units and 2.4 FTE). In addition, it is noted that the Aldersly campus is located approximately 0.4 miles southwest of the SMART Downtown San Rafael Station. Per recent State legislation (AB 2097), minimum parking requirements cannot be imposed or enforced in any residential, commercial, or other development project located within ½ mile of public transit after January 1, 2023. Nevertheless, the project would voluntarily provide six (6) additional on-site parking spaces over what exists today. In addition, Condition 8 of the Master Use Permit (Attachment 3) would require that Aldersly implement a Parking Management Strategy to maximize on-site parking during peak periods and reduce the use of on-street parking in the neighborhood. Based on the above, staff recommends approval of this revision to the proposed Development Plan.

FISCAL IMPACT:

The costs associated with processing the planning applications for this project are borne by the applicant and are subject to 100% cost recovery of staff time, and therefore would have no direct fiscal impact on the City budget.

In addition, the project would generate one (1) net new AM trip and two (2) net new PM trips for a total of 3 peak-hour trips that would be subject to the payment of a Traffic Mitigation Fee of \$12,738 (3 trips x \$4,246/new peak hour traffic trip) to assist in funding off-site transportation improvements. All utility connections (sewer, water, gas/electric) will be constructed at the cost of the property owner. Further, all public improvements along the site frontages will be constructed at the cost of the property owner.

OPTIONS:

The City Council has the following options:

1. Approve the applications as presented, with recommended conditions (*staff recommendation*);
2. Approve the applications with certain modifications, changes or additional conditions of approval;
3. Continue the hearing to allow the applicant to address any of the Council's comments or concerns; or
4. Deny the project and direct staff to return with revised Resolutions.

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Resolution Certifying the Final Environmental Impact Report, Adopting a Statement of Overriding Considerations, and Adopting a Mitigation Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for the Aldersly Planned Development Amendment Project
2. Waive further reading of the ordinance and refer to it by title only, and introduce an Ordinance of the City of San Rafael City Council Approving a Planned Development Rezoning from Planned

Development District (PD 1775) to Planned Development District (PD) and Development Plan Including 14 Net New Independent Living Units for the 2.9-Acre Senior Retirement Community Site Located at 308 and 326 Mission Avenue

3. Resolution Approving the Master Use Permit Amendment (UP20-022) and Environmental and Design Review Permit (ED20-051) for the Aldersly Retirement Community at 308 and 326 Mission Avenue (APN 014-054-31 and 32)

ATTACHMENTS:

1. Resolution Certifying Final EIR and Adopting MMRP
2. Ordinance Adopting a Planned Development (PD) Rezoning
3. Resolution Conditionally Approving the Master Use Permit and Environmental and Design Review Permit
4. Public comments
5. Public Hearing Notice

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE ALDERSLY PLANNED DEVELOPMENT AMENDMENT PROJECT

WHEREAS, on November 12, 2020, Peter Schakow, President of the Aldersly Board of Directors (applicant), submitted applications for a Planned Development (PD) Zoning Amendment, Master Use Permit Amendment, and Environmental and Design Review Permit for the Aldersly Retirement Community Project, which collectively constitute a “project” under the California Environmental Quality Act (“CEQA”); and

WHEREAS, CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) require an analysis and determination regarding a project’s potential environmental impacts. It was determined that the project has the potential to result in potentially significant environmental effects, and the preparation of an Environmental Impact Report (“EIR”) was recommended; and

WHEREAS, the City released a Notice of Preparation (“NOP”) for the Project to the Office of Planning and Research (“OPR”) State Clearinghouse and interested agencies and persons on November 25, 2021 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City held a public scoping meeting on December 14, 2021. Comments on the NOP were received and considered during preparation of the Draft EIR; and

WHEREAS, a Notice of Availability (“NOA”) was issued and the Draft EIR was made available for public review on the City’s website on August 16, 2022 for a 45-day public review period through September 30, 2022; and

WHEREAS, the Draft EIR was filed with the California Office of Planning and Research on August 17, 2022; and

WHEREAS, the San Rafael Planning Commission held a public comment hearing on the Draft EIR on September 13, 2022; and

WHEREAS, on November 10, 2022, the City published a Response to Comments Document that contains all comments received on the Draft EIR during the public comment period, including those received at the public hearing, and prepared written responses to those comments in accordance with CEQA and the CEQA Guidelines. The Draft EIR and Response to Comments Document, together with the errata, constitute the Final EIR; and

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

WHEREAS, after notice having been lawfully given, a duly noticed public hearing was held before the City Planning Commission on November 15, 2022, at which all persons interested had the opportunity to appear and comment and at which the Planning Commission considered and made recommendations to the City Council regarding the

Final EIR and the merits of the Project; and

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

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

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

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

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Rafael certifies the Final Project EIR, and makes the following findings with respect to the Proposed Project's significant effects on the environment as identified in the Final Project EIR, as required under Sections 15091, 15092, and 15093 of the CEQA Guidelines, and adopts the Statement of Overriding Considerations and the MMRP as follows:

I. PROJECT DESCRIPTION

As fully described in Chapter 2 of the Draft EIR, the Project includes phased construction on the Aldersly campus, including the construction of three new buildings and additions/renovations to existing buildings as outlined below:

PHASE 1: Build new Independent Living (IL) Building, Relocate the Campus Reception/Entry to street level, Expand Community Space, and Improve Central Courtyard.

Phase 1A:

- Demolish three small buildings (Liselund, Marselisborg and Graasten) containing a total of 12 independent living, studio units.
- Demolish building at 308 Mission (currently used as office space)

Phase 1B: Add new independent living building.

- Construct new independent living 35-unit building. Includes the redesign of site entry and parking for better accessibility for residents and visitors. (An elevator and an interior connection to Fredensborg will enable sheltered ADA access to upper levels on the hillside site).
- Provide nine (9) parking spaces in the new Mission Avenue IL building, five guest parking spaces at the new main entrance, and six surface parking spaces along the East driveway to Rosenberg.
- Expand community space with a café, rooftop lounge, arts & crafts/activity room, and a conference room/pre-function room.

- Improve central courtyard. Improve outdoor spaces with new gathering spaces and landscaping, including historic elements.

PHASE 2: Service Building Addition

- Demolish the Minor Building (8 independent living units)
- Construct a new service connector building with service elevator connections to Rosenberg and Kronborg to improve service access for delivery, refuse and maintenance back-of-house spaces for increased efficiency.
- Expand outdoor garden for Memory Care (Rosenborg)

PHASE 3: West Campus Independent Living

- Demolish Amalienborg and Sorgenfri (14 independent living units)
- Construct new 15 independent living units in new West Campus IL building (net +1).
- Partial rebuild of Frederiksborg to increase floor area (no net change in number of IL units). Add four new parking spaces. Interior renovation of Frendensborg (-2 net change in number of IL units)

At buildout of the proposed PD Development Plan, (estimated to be 10 years from Project approval, or approximately the year 2032) the Project would result in fourteen (14) net new 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 parking on-site parking spaces would increase from 48 spaces to 54 spaces at buildout of the Development Plan.

The anticipated entitlements and permits that would be needed for the Project are the following:

- A zoning amendment to amend the previously approved 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 for Phases 1-3 (ED20-051).

A. PROJECT OBJECTIVES

The Project Sponsor has identified the following goals and objectives of the Project:
Goals:

- To keep Aldersly a boutique residential community for older people looking for a home with *hygge* - Danish for the experience of coziness and comfortable conviviality that engenders feelings of contentment and well-being.
- To allow the Aldersly Retirement Community to evolve to meet the needs of current and future residents for the next 20 years.

Project objectives originating from these overarching goals include:

- Create a financially sustainable community that will last another 100 years
- Add a second dining venue and resident lounge/gathering spaces
- Create a dedicated Memory Care Center with an accessible outdoor garden area
- Update Independent Living units to attract new residents. Increase number of larger, more marketable units (average unit size in square feet)
- Improve site accessibility and access to campus amenities for staff and residents with various levels of mobility
- Improve entry experience to create a positive first impression
- Define a core active space for residents that promotes social interaction and movement between different parts of the campus
- Provide outdoor spaces with lush landscaping to maintain Aldersly's long-

time connections to nature and outdoor living, in keeping with the original hygge spirit of the community

- Provide additional parking
- Improve delivery area and back of house spaces to increase efficiency and ease access from Belle Avenue
- Maximize Aldersly's footprint, within the limits of the land use and design controls established by the City's planning documents

II. ENVIRONMENTAL REVIEW PROCESS

A. ENVIRONMENTAL IMPACT REPORT

According to CEQA, lead agencies are required to consult with public agencies having jurisdiction over a proposed project, and to provide the general public with an opportunity to comment on the Draft EIR. An NOP for an EIR was issued by the City to the OPR State Clearinghouse and interested agencies and persons on November 25, 2021 for a 30-day review period, during which interested agencies and the public could submit comments about the Project. The City also held a public scoping meeting on December 14, 2021. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

A Notice of Availability (NOA) of the Draft EIR was issued on August 16, 2022, and the Draft EIR was made available for public review for a 45-day public review period through September 30, 2022. The Draft EIR was distributed to local, regional, and State agencies and the general public was advised of the availability of the Draft EIR.

The Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. The Draft EIR and the Responses to Comments Document comprise the Final EIR. The Planning Commission was presented with the Final EIR for consideration at a public hearing on November 15, 2022.

III. CERTIFICATION OF THE FINAL EIR

Upon receiving the recommendation of the Planning Commission, in accordance with CEQA Guidelines Section 15090, the City of San Rafael, acting by and through its City Council will certify that the Final EIR has been completed in compliance with CEQA and the CEQA Guidelines. The City will further certify that it has been presented with the Final EIR and that it has reviewed and considered the information contained in the Final EIR prior to approving the Project. The City will further certify that the Final EIR reflects its independent judgment and analysis.

IV. RECORD OF PROCEEDINGS

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

- (a) The NOP and all other public notices issued by the City in conjunction with the project;
- (c) The Draft EIR for the Project, dated August 2022;
- (d) All comments submitted by agencies or members of the public during the public comment period on the Draft EIR;
- (e) The Final EIR for the Project, including comments received on the Draft EIR, responses to those comments, and the technical appendices, dated November 2022;

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

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

III. FINDINGS

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

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

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

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

IV. FINDINGS FOR SIGNIFICANT AND UNAVOIDABLE IMPACT

The Final EIR identifies one significant and unavoidable adverse impact associated with the approval of the Project, which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. As explained below, this impact will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. The City Council finds there are no additional feasible mitigation measures or alternatives that could be adopted at this time that would reduce these significant and unavoidable impacts to a less than significant level. For reasons set forth below, however, the City Council has determined that overriding economic, social, and other considerations outweigh the Project's significant and unavoidable effects. The findings in this section are based on the Project EIR, the discussion and analysis of which is hereby incorporated in full by this reference.

A. 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 historic resource.

The Final EIR finds that the Aldersly property is potentially eligible for listing as a historic district in the California Register of Historic Resources (California Register) and is therefore considered a historic resource. 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. The construction of the 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 historic resource would be altered in some way, either through relocation, removal, or alteration.

Implementation of Mitigation Measure CUL-1 set forth below, which is hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Therefore, the impact would be significant and unavoidable.

Mitigation Measure CUL-1: Interpretation and Commemoration of Historic Resources. Prior to issuance of demolition permit(s), the project sponsor shall undertake the following measures to document and provide interpretation, commemoration, and salvage of the historic resources to be demolished, as outlined below:

CUL-1a: Documentation. Prior to issuance of demolition permits, the project sponsor shall undertake Historic American Building Survey (HABS)/Historic American Landscape Survey (HALS)–style documentation of the property. The documentation shall be funded by the project sponsor and undertaken by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate) set forth in the Secretary of the Interior's Professional Qualification Standards (Code of Federal Regulations title 36, part 61). The documentation package created shall consist of the items listed below:

- CUL-1a-1: HABS-style Photographs
- CUL-1a-2: HABS/HALS-style Historical Report

- CUL-1a-3: HALS-style Site Plan
- CUL-1a-4: Video Documentation

The documentation materials shall be offered to state, regional, and local repositories, including but not limited to, the Northwest Information Center (NWIC)-California Historical Resource Information System, San Rafael Public Library, the Marin County Free Library's Anne T. Kent California Room, and the Marin History Museum. Materials will either be provided in digital or hard copy formats depending on the capacity and preference of the repository.

CUL-1a-1: HABS-style Photographs

Digital photographs will be taken of the contributing buildings and landscape elements and the overall character and setting of the historic resource. All digital photography shall be conducted according to current National Park Service standards as specified in the National Register Photo Policy Factsheet (updated May 2013). The photography shall be undertaken by a qualified professional with demonstrated experience in documentation photography. Large format negatives are not required. The scope of the digital photographs shall be reviewed and approved by the Planning Division's staff for concurrence.

Photograph views for the data set shall include contextual views of the site and each contributing landscape element and building; elevations of each façade of each building; and detail views of character-defining features. All photographs shall be referenced on a photographic key map or site plan. The photographic key shall show the photograph number with an arrow to indicate the direction of the view.

CUL-1a-2: HABS/HALS-style Historical Report

A written historical narrative and report will be produced that meets the HABS/HALS Historical Report Guidelines. This HABS/HALS-style Historical Report may be based on the documentation provided in the 2017 Historic Resource Evaluation for the site and will include historic photographs and drawings, if available. The written history shall follow the standard outline format that begins with a statement of significance for the historic district, describes the architectural and historical context of the district, and includes descriptions of each contributing building and landscape feature.

CUL-1a-3: HALS-style Site Plan

A HALS-style site plan shall be prepared that depicts the existing sizes, scale, dimensions, and relative locations of the contributing landscape elements and buildings related to the historic resource. Particular attention will be paid to the arrangement and plantings of landscape features that are contributing resources to the historic resource. Documentation of all plantings is not required, but depiction of the locations and types of mature trees, and designed hardscape and landscape features shall be included.

CUL-1a-4: Video Recordation. Video recordation shall be undertaken prior to the issuance of demolition permits. The project sponsor shall undertake a video documenting the historic resource and its setting. The documentation shall be conducted by a professional videographer, preferably one with experience recording architectural resources. The documentation shall be narrated by a qualified professional who meets the Secretary of the Interior's Professional Qualification Standards for history, architectural history, or architecture (as appropriate). The documentation shall include as much information as possible—using visuals in combination with narration—

about the materials, construction methods, current condition, historic use, historic context, and historic significance of the historic resource. The video documentation shall be reviewed and approved by the Planning Division's staff prior to issuance of demolition permits.

CUL-1b: Interpretation. The project sponsor shall provide a permanent display (or multiple displays) of interpretive materials concerning the history of Aldersly in the Northern California Danish-American community and the architectural features of the Aldersly Retirement Community campus as designed in the 1961-1968 master plan by master architect Rex Whitaker Allen. Interpretation of the site's history shall be supervised by an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards. The high-quality interpretive display(s) shall be installed within the project site boundaries, made of durable, all-weather materials, and positioned to allow for high public visibility and interactivity. In addition to narrative text, the interpretative display(s) may include, but are not limited to, a display of photographs, news articles, memorabilia, drawings, and/or video. A proposal describing the general parameters of the interpretive program shall be approved by the Planning Division's staff prior to issuance of building permits. The content, media, and other characteristics of the interpretive display shall be approved by the Planning Division's staff prior to issuance of a Temporary Certificate of Occupancy.

CUL-1c: Salvage. Prior to any demolition or construction activities that would remove character-defining features of a resource that is a contributor to the historic resource on the project site, the project sponsor shall consult with a qualified architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards as to whether any such features may be salvaged, in whole or in part, during demolition/alteration. The project sponsor shall submit a list of materials that will be salvaged and reused either on the site or within the interpretive program to the Planning Division for review prior to the beginning of demolition on the site. The project sponsor shall make a good faith effort to salvage materials of historical interest to be utilized as part of the interpretative program. No materials shall be salvaged or removed until HABS/HALS-style recordation and documentation are completed.

Significance with Mitigation: Significant and Unavoidable. While the Project proposes to relocate some of the character-defining features and contributing elements of the landscape, and Mitigation Measure CUL-1 would lessen the impact associated with the proposed project; it would not reduce the impact to a less-than- significant level. The historic resource would lose its integrity and ability to convey its significance. Therefore, the impact on the historic resource would be significant and unavoidable.

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

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed through the corresponding mitigation measures will be reduced to a less than significant level or avoided by adopting and incorporating these mitigation measures into the Project. As explained in Section VII, below, the findings in Section V are based on the Final EIR, including the discussion and analysis contained in Appendix B of which is incorporated in full by this reference, and as identified in the Summary Chapter, Table S-1, Summary of Impacts and Mitigation Measures of the Final EIR and supported by evidence contained within the entirety of the record of proceedings.

A. 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.

B. 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*)

C. IMPACT TCR-1: Ground-disturbing activities as a result of the Proposed Project could encounter Tribal Cultural Resources, the disturbance of which could result in a significant impact under CEQA.

As discussed in Chapter 3 and summarized in Table S-1 in the Summary Chapter of the Final EIR, although construction of the proposed project would have no impact on known tribal cultural resources, there is a possibility that previously unidentified resources and subsurface deposits are present within the Project area. Implementation of Mitigation Measure TCR-1, which requires a survey of the site by trained Human Remains Detection Dogs, would avoid or reduce this impact to a less-than- significant level.

D. IMPACT AQ-1. The project could result in a cumulatively considerable net increase a criteria pollutant for which the project region is non – attainment under an applicable federal or state ambient air quality standard (Appendix B - Checklist Item III.b.).

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, the project could result in a cumulatively considerable net increase a criteria pollutant for which the project region is non – attainment under an applicable federal or state ambient air quality standard. Implementation of **Mitigation Measure AQ-1**, which requires BAAQMD Best Management Practices (BMPs) be implemented during construction would avoid or reduce this impact to a less-than- significant level.

E. IMPACT AQ-2. The project could expose sensitive receptors to substantial pollutant concentrations (Appendix B - Checklist Item III.c.)

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, the project could expose sensitive receptors to substantial pollutant concentrations. Implementation of **Mitigation Measure AQ-2**, which requires construction equipment to minimize exhaust emissions would avoid or reduce this impact to a less-than- significant level.

F. IMPACT BIO-1. The project has the potential to disturb active bird nests on the Project site. (Checklist Item IV.a.).

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, the project has the potential to disturb active bird nests during construction. Implementation of Mitigation Measure BIO-1, which requires avoidance of nesting birds in compliance with State and federal regulations, would avoid or reduce this impact to a less-than- significant level.

As discussed in the Final EIR Response to Comments from California Department of Fish

and Wildlife (CDFW), no bats or indicators of on-site roosting (e.g., guano/staining) were observed by the biologist during their site visit. For these reasons, bats (including special-status species) are unlikely to roost on the project site. Though not required, the following measures recommended by CDFW are adopted and included in the MMRP:

Mitigation Measure BIO-2 (Roosting Bat Habitat Assessment and Surveys):

Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. A qualified bat biologist shall have: 1) at least two years of experience conducting bat surveys that resulted in detections for relevant species, such as pallid bat, with verified project names, dates, and references, and 2) experience with relevant equipment used to conduct bat surveys. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species). If suitable habitat trees are found, or bats are observed, mitigation measure BIO-3 shall be implemented.

Mitigation Measure BIO-3 (Roosting Bat Tree Protections): If the qualified biologist identifies potential bat habitat trees, then tree trimming and tree removal shall not proceed unless the following occurs: 1) a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establishes absence of roosting bats, or 2) tree trimming and tree removal occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, and tree removal occurs using the two-step removal process. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.

G. 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. (Checklist Item VII.a.ii)

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, the project could. Implementation of **Mitigation Measure GEO-1**, which requires that seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Geotechnical Investigation prepared by Rockridge Geotechnical, August 31, 2020, and that a final geotechnical investigation be prepared by a qualified and licensed geotechnical engineer would avoid or reduce this impact to a less-than- significant level.

H. IMPACT GEO-2. The project has the potential to destroy a unique paleontological resource during construction and earthmoving activities (Checklist Item VII.f.)

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, the project **project**

has the potential to destroy a unique paleontological resource during construction and earthmoving activities. Implementation of **Mitigation Measure GEO-2**, which establishes protocols in the event that fossils or other paleontological resources are encountered during project subsurface construction, would avoid or reduce this impact to a less-than-significant level.

I. IMPACT NOI-1. Noise generated by construction activities, including demolition, could exceed the 90 dBA L_{eq} noise level established in SRMC Section 8.13.050

As discussed in Appendix B, Topics Not Requiring Detailed Environmental Analysis and summarized in Table S-1 in the Summary Chapter of the Final EIR, noise generated by project construction activities, including demolition, could exceed the 90 dBA L_{eq} noise level established in the San Rafael Municipal Code. Implementation of **Mitigation Measure NOI-1**, which requires that a Construction Noise Management Plan (CNMP) prepared by a qualified acoustical consultant to identify noise attenuation measures, including but not limited to installing temporary noise barriers, would reduce this impact to a less-than- significant level.

VI. ALTERNATIVES

The Final EIR analyzed three alternatives to the Project. The Project objectives are listed in Chapter 2 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 3 of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

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

1. Alternative 1: No Project Alternative:

Pursuant to CEQA Guidelines Section 15126.6(e)(1), the No Project Alternative is required as part of the “reasonable range of alternatives” to allow decision makers to compare the impacts of approving the proposed project with the impacts of taking no action or not approving the proposed project. Consistent with CEQA Guidelines Section 15126.6(e)(3)(B), when the project is a development project on identifiable property, the “no project” alternative is the circumstance under which the project does not proceed.

Under Alternative 1, the Aldersly campus would remain in its existing condition and would not be subject to redevelopment. Aldersly would continue to operate as it currently exists and no new construction would occur within the Project site, except for repairs and interior renovations to existing buildings. The number of Independent Living units, assisted living/memory care beds and skilled nursing beds would be essentially unchanged (55 Independent Living units, 35 Assisted Living/Memory Care beds, and 20 Skilled Nursing beds).

A. Comparison of Environmental Impacts: There would be no redevelopment of Aldersly’s campus under Alternative 1. Aldersly would continue to operate as is which would include ongoing minor repairs and renovations of existing buildings.

The Aldersly campus would remain eligible for listing in the California Register and there would be no other environmental impacts under this alternative.

- B. Facts in Support of Finding:** Alternative 1 would not meet the Project's overarching goals or objectives. Under this alternative, Aldersly would not add or update existing independent living units, construct a dedicated outdoor garden for the Memory Care Center or other outdoor spaces for connecting with nature, create a core active space to promote social interaction, or add a second dining venue and resident lounge/gathering spaces. These objectives are necessary for meeting the Project's overarching goals of maintaining Aldersly as a boutique residential community for older adults while providing the flexibility to evolve to meet the current and future needs of residents. These objectives would also ensure that Aldersly remains a financially sustainable community for the foreseeable future. The new and updated independent living units responds to changing market demand for older adult independent living and is therefore needed to attract new residents. The dedicated outdoor garden would enhance Aldersly's new and innovative Memory Care Center. The improved outdoor spaces, new core active space, and second dining venue and resident lounge/gathering spaces provide additional amenities to retain and attract new residents.

Alternative 1 would also not meet the objectives of improving site accessibility for staff and residents, providing additional parking, or maximizing Aldersly's development footprint within established land use and design controls for the Project site. Overall, under Alternative 1, there would be uncertainty as to whether Aldersly may be redeveloped and modernized to ensure its ongoing and future viability as a non-profit community for older adults.

- C. Finding:** Accordingly, City Council hereby finds Alternative 1 to be infeasible for the preceding policy, social, and economic reasons and because it would not satisfy the Project's objectives. Each of these reasons would separately and independently provide sufficient justification for rejecting Alternative 1

2. Alternative 2: On-Site Preservation Alternative:

Alternative 2 would limit redevelopment to the southern edge of the Aldersly campus. Marselisborg, Graasten, and Liselund, all of which are contributing buildings to the historic resource, would be demolished and replaced with a new building fronting Mission Avenue that would include a parking garage, administrative space, and 35 independent living units. Frederiksborg would also be demolished and replaced with a two-story building containing ground floor indoor parking and six independent living units. As with the Project, many of the contributing landscape features of the historic resource would be relocated, altered, or removed to accommodate the independent living building along Mission Avenue. The Minor Building would be demolished and replaced with the outdoor garden for the Memory Care Center. The new service connector building would not be constructed between Rosenborg and Kronborg. Alternative 2 would also not construct the independent living building in the northwest portion of the campus thereby preserving contributing buildings Amalienborg and Sorgenfri. In total, four of the nine contributing buildings would be demolished. The net increase of residential and administrative space under Alternative 2 would be 53,390 sq. ft. and the average size of the independent living units would be 830 sq. ft.

- A. Comparison of Environmental Impacts:** Since Alternative 2 proposes less development than the Project, net increase of 53,390 sq. ft. versus the Project's net

increase of 64,260 sq. ft., this smaller project would generally reduce the Project's environmental effects to some degree. For example, air quality, greenhouse gas emissions, noise, and biological resource impacts would be reduced due to there being less construction (although these impacts are less than significant for both the Project and Alternative 2). Alternative 2 would also reduce the impact to the historic resource but the impact would remain significant and unavoidable. Even though an additional two contributing buildings would be preserved, the Project site would still lose its historic integrity and ability to convey its significance due to demolition of four of the nine contributing buildings and relocating, altering, or removing most of the contributing landscape features.

- B. Facts in Support of Finding:** Alternative 2 meets some but not all of the Project's objectives. For instance, the alternative would add a second dining venue, create a dedicated outdoor garden for the Memory Care center, and define a core active space for residents to promote social interaction. The alternative would add independent living units and increase their overall size, but not to the extent the Project would (830 sq. ft. in Alternative 2 compared to 968 sq. ft. in the Project). These smaller independent living units would be less attractive to potential new residents and so the alternative falls short of the objective to ensure Aldersly can operate in a financially sustainable manner for the foreseeable future. The alternative also would not maximize Aldersly's development footprint within existing land use controls. Furthermore, Alternative 2 would not meet the objectives of improving site accessibility as construction would be focused solely in the southern portion of campus. The desired improvements to the delivery area and back of house spaces with a connector building between Rosenberg and Kronborg would not be constructed.

Although Alternative 2 would further reduce the Project's less than significant impacts, the impact to the historic resource would remain significant and unavoidable as four of the nine contributing buildings would be demolished and the majority of contributing landscape features would be relocated, altered, or removed.

- C. Finding:** Accordingly, the City Council hereby finds Alternative 2 to be infeasible for the preceding policy, social, and economic reasons and because it would not satisfy the Project's objectives. Each of these reasons would separately and independently provide sufficient justification for rejecting Alternative 2.

3. Alternative 3: Off-Site Alternative

Alternative 3 would locate all new development on the eastern end of the Aldersly campus and on two parcels owned by Aldersly (121 and 123 Union Street) adjacent to the northeast corner of campus at Belle Avenue and Union Street. The only contributing buildings that would be demolished under Alternative 3 are the Minor Building and Liselund. Seven contributing buildings and seven contributing landscape features would remain intact. Rosenberg, a non-contributing building constructed in 2004 that currently houses assisted living and memory care facilities and Liselund would be demolished and replaced with a new building with two to four stories spanning from the two adjacent parcels on Union Street down to Mission Avenue. This new building would accommodate 41 parking spaces, 15 assisted living units, 15 memory care units, and 42 independent living units. The Minor Building would be replaced with an outdoor landscaped area. As Rosenberg contains a parking garage with 30 spaces, the majority of on-site parking spaces would be temporarily eliminated during the construction process. The net increase of residential and administrative space under Alternative 3 would be 46,730 sq. ft. and the average size of the

independent living units would be 764 sq. ft.

A. Comparison of Environmental Impacts: Alternative 3 would retain the majority of the buildings and landscaping elements that contribute to the historic district thereby reducing the significant impact to less than significant. Accordingly, the campus would retain its eligibility for the California Register. Alternative 3 would result in a net increase of 46,730 sq. ft. of residential and administrative space whereas the Project would increase residential and administrative space by 64,260 sq. ft. As such, construction related environmental impacts under Alternative 3 may be somewhat reduced. However, some construction impacts will be increased. In particular, development on the two adjacent parcels will be in closer proximity to existing single family homes on Belle Avenue and Union Street, as compared to the Project, which could increase air quality and noise impacts. Alternative 3 would also require more earthwork than the Project, although with implementation of BMPs, a construction management plan, and compliance with the noise ordinance, impacts would remain less than significant.

B. Facts in Support of Finding: Alternative 3 meets some but not all of the Project objectives. The new building replacing Rosenberg would include a second dining venue and gathering/lounge spaces and the Minor Building would be replaced with the outdoor garden for the Memory Care Center. The alternative would provide larger independent units than exist today, but the average unit size would be even smaller than the independent living units under Alternative 2 and therefore be less marketable to potential residents. This would impact Aldersly's ability to remain a financially sustainable community.

Alternative 3 would also require demolishing Rosenberg which is a relatively new building constructed in 2004 and was remodeled in the past year to house Aldersly's state-of-the art Memory Care Center and assisted living facilities. Rosenberg, as recently upgraded, was a major investment by Aldersly and demolishing it well before the end of its useful life would add significant costs not accounted for and is likely a financially infeasible option. Demolishing Rosenberg would be impractical and may not be an option that the California Department of Social Services ("CDSS") would approve. As a licensed Residential Care Facility for the Elderly, Aldersly is required to obtain approval from CDSS for major modifications to its facilities. Since Rosenberg houses both the Memory Care Center and assisted living facilities, demolishing it would require displacing and temporarily relocating up to 35 residents across both programs. Relocating these residents on campus would be extremely challenging given the constraints of existing facilities combined with construction of the project and the special requirements and needs of these residents. It would also be very disruptive since these residents have medical conditions requiring stable, routine, and consistent care. As such, Alternative 3 may be infeasible because it would be impractical and disruptive to temporarily relocate up to 35 assisted living and memory care residents and may not receive approval from CDSS.

Alternative 3 also would not improve site accessibility and access to campus amenities, define a core active space for residents, or provide additional parking spaces, all of which are Project objectives. In fact, the number of overall parking spaces would be reduced by three. The alternative would also not make the most of Aldersly's development footprint, opting to instead expand onto the adjacent parcels which would require rezoning. Development on the two parcels would result in additional impacts to the adjacent neighbors on Belle Avenue and Union

Street. The new building replacing Rosenberg would be taller and have greater massing and would therefore further impact the views and shadows of the single-family homes situated on Union Street and directly east of the campus.

- C. Finding:** Accordingly, the City Council hereby finds Alternative 3 to be infeasible for the preceding legal, social, economic, and other considerations and because it would not satisfy the Project's objectives. Each of the reasons described above would separately and independently provide sufficient justification for rejecting Alternative 3.

4. ENVIRONMENTALLY SUPERIOR ALTERNATIVE

The CEQA Guidelines (Section 15126.6(e)) require the identification of an environmentally superior alternative to the Proposed Project. If it is determined that the "no project" alternative would be the environmentally superior alternative, then the EIR shall also identify an environmentally superior alternative among the other project alternatives (Section 15126.6[e][2]). To determine the environmentally superior alternative, the impacts of all the alternatives were compared to determine which alternative would have the least adverse effects. 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.

Alternative 3 would retain the majority of the buildings and landscaping elements that contribute to the historic resource thereby reducing the significant impact to the historic resource to less than significant. However, as noted above, Alternative 3 would meet fewer of the project sponsor's objectives. The new building replacing Rosenberg would include a second dining venue and gathering/lounge spaces and the Minor Building would be replaced with the outdoor garden for the Memory Care Center. The alternative would provide larger independent units than exist today, but the average unit size would be even smaller than the independent living units under Alternative 2 and therefore be less marketable to potential residents. This would impact Aldersly's ability to remain a financially sustainable community.

Alternative 3 would also require demolishing Rosenberg which is a relatively new building constructed in 2004 and was remodeled in the past year to house Aldersly's state-of-the art Memory Care Center and assisted living facilities. Rosenberg, as recently upgraded, was a major investment by Aldersly and demolishing it well before the end of its useful life would add significant costs not accounted for and is likely a financially infeasible option. As noted above, demolishing Rosenberg may not be an option that the California Department of Social Services ("CDSS") would approve. As a licensed Residential Care Facility for the Elderly, Aldersly is required to obtain approval from CDSS for major modifications to its facilities. Since Rosenberg houses both the Memory Care Center and assisted living facilities, demolishing it would require displacing and temporarily relocating up to 35 residents across both programs. Relocating these residents on campus would be extremely challenging given the constraints of existing facilities combined with construction of the project and the special requirements and needs of these residents. It would also be very disruptive since these residents have medical conditions requiring stable, routine, and consistent care. As such, Alternative 3 may be infeasible because it would be impractical and disruptive to temporarily relocate up to 35 assisted living and memory care residents and may not receive approval from CDSS. Alternative 3 also would not improve site accessibility and access to campus amenities, define a core active space for residents, or provide additional parking spaces, all of which are Project objectives.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

As stated above and determined in the foregoing findings, the City has determined that the Project would result in a significant and unavoidable impact to an historic resource and there is no feasible mitigation or alternative to reduce the impact to less than significant. The City has determined all other impacts to be less than significant.

Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions (see also Public Resources Code Section 21081(b)). Accordingly, the City Council specifically adopts and makes this Statement of Overriding Considerations. The Project has mitigated the significant impacts on the historic resource to the extent feasible and finds that the remaining significant and unavoidable impact is acceptable in light of the economic, legal, environmental, social, technological, or other considerations described below because the benefits of the Project outweigh its significant adverse environmental effect, and that the adverse environmental effect is therefore acceptable.

The City Council finds that each of the overriding considerations set forth below is a separate and independent basis for finding that the benefits of the Project outweigh its significant and unavoidable impact and warrants approval of the Project. Based on the substantial evidence in the record, including the public record of proceedings as well as oral and written testimony at all public hearings on the Project to date, the City Council hereby determines that implementation of the Project would result in the following substantial benefits:

1. Promote City Goals and Policies: The Project promotes the following goals and policies of the City's General Plan:

- a. Goal EDI-6: An Age-Friendly Community. Enhance the quality of life for older adults in San Rafael.

The Project supports the City's goal of serving older adults and enhancing their quality of life. The new and expanded independent living units and other improvements would attract new residents and enhance the living experience of existing residents. The second dining venue, lounge and gathering spaces, and core active space would provide additional areas for residents to meet and socialize. The outdoor garden for the Memory Care Center and other outdoor experiences would elevate the campus' outdoor living experience. The site accessibility improvements would make it easier for residents to move about the campus.

- b. Policy H-13: Senior Housing. Encourage housing that meets the needs of San Rafael's older population, particularly affordable units and affordable care facilities that foster aging within the community. Support development that provides housing options so that seniors can find suitable housing to rent or purchase.

The Project would result in a net increase of fourteen (14) independent living units for seniors (from 55 units to 69 units) and would continue to provide 35 assisted living/memory care beds and 20 skilled nursing beds. In response to market demand, the new and remodeled Independent Living units would be larger than Aldersly's existing independent living units and include amenities such as a full kitchen and in-unit washer and dryer. Independent living units

provide older adults the option to live in a supported community with the experience of living on their own. These independent living units are also an option for older adults seeking to downsize from their single-family homes.

- c. Policy LU-1.3: Land Use and Climate Change. Focus future housing and commercial development in areas where alternatives to driving are most viable and shorter trip lengths are possible, especially around transit stations, near services, and on sites with frequent bus service. This can reduce the greenhouse gas emissions associated with motor vehicle trips and support the City's climate action goals.

Policy M-3.8: Land Use and VMT: Encourage higher-density employment and residential uses near major transit hubs such as Downtown San Rafael, recognizing the potential for VMT reduction in areas where there are attractive alternatives to driving, concentrations of complementary activities, and opportunities for shorter trips between different uses

The Project would increase the overall density of the Aldersly campus with 35 modernized and larger independent living units and other amenities such as the second dining venue and lounge/gathering spaces. The Project is within one half mile of the San Rafael Transit Center which is served by SMART, Marin Transit, Golden Gate Transit, and Sonoma County Transit, and is near commercial and retail uses in Montecito Plaza downtown San Rafael.

- d. Policy EV-3.3: Economically Productive Use of Land. Encourage the use of the City's commercial and industrial land supply in a way that creates positive fiscal impacts, economic opportunities for local businesses and property owners, employment growth, and services for San Rafael residents.

The Project makes the most of the development potential of the Aldersly campus. The modernized and larger independent living units and other improvements would ensure that Aldersly can operate sustainably as a non-profit into the future and continue to provide a home for older adults and retain its employees.

2. **Increase Opportunities for Older Adults to Remain in the Community:** The Project would provide a total of 35 modernized and larger independent living units designed to meet the current and future needs of older adults in the City and the region. Marin County has the highest median age of any County in the Bay Area and it is projected that persons over 65 will be the fastest growing population during the time horizon of the City's 2040 General Plan. Overall trends show that more people are growing into their 80s and beyond thereby increasing demand for community and assisted living. A significant benefit of the Project is to expand opportunities for older adults to remain in the community.
3. **Ensure Financial Stability for Aldersly in the Long-Term:** The Project would ensure that Aldersly remains a financially sustainable non-profit community for the foreseeable future. Older adults are not looking for housing that met their parents' needs. To meet the market demand of today's older adults, Aldersly needs to increase the overall size of its independent living units and offer amenities such as full kitchens, in-unit laundry, open floor plans, and larger windows that allow in more natural light. These upgrades are needed to ensure that Aldersly can remain competitive and operate at financially sustainably. Not pursuing these

improvements would threaten the long-term viability Aldersly. Aldersly is an important part of the San Rafael community, so a key benefit of the Project is ensuring its long-term financial stability.

- 4. Maintain and Enhance the Aldersly Experience:** The Project would maintain and enhance Aldersly as a boutique residential community for older people with an over 100-year history as a contributing and valued member of the San Rafael community. Aldersly is known for its long-time connection to nature and outdoor living in keeping with the original *hygee* (Danish for the experience of coziness and comfortable conviviality that engenders feelings of contentment and well-being) spirit of its community. The Project would enhance the outdoor living experience for residents by establishing an accessible dedicated outdoor garden area for the Memory Care Center, improving the other outdoor spaces on campus with lush landscaping, and creating a core active space for residents that promotes social interaction and movement around the campus. The second dining venue and resident lounge/gathering spaces would provide additional space for residents to gather and socialize in an inviting and comfortable setting. The campus is also difficult to traverse due to its hillside location. The Project would address this issue by improving overall site accessibility including ADA improvements. Given Aldersly's long history within the San Rafael community, a key benefit of the Project is maintaining and enhancing the unique and special Aldersly experience.
- 5. Efficient Development that Respects the Existing Neighborhood:** The Project would provide much needed senior housing within Aldersly's existing development footprint. The Aldersly campus is located within the Montecito/Happy Valley Neighborhood which is one of San Rafael's oldest neighborhoods and is adjacent to downtown San Rafael. The neighborhood consists of a mixture of residential, retail, and community services. Aldersly is situated in a transitional area from retail and community services uses to single family homes. The Project efficiently uses existing developed land to redevelop Aldersly while maintaining the balance of land uses and layout of development in this established neighborhood. For instance, the Project's largest building, the independent living building fronting Mission Avenue is oriented towards existing commercial and multi-family land uses and away from, to the extent possible, nearby single-family homes.
- 6. Development of an Existing and Transit-Adjacent Site:** The Project would redevelop portions of Aldersly's campus which is located in an urbanized area of the City directly adjacent to downtown San Rafael and within a half a mile of the San Rafael Transit Center. Development near transit provides a number of environmental benefits particularly by reducing air quality and greenhouse gas emissions by reducing overall vehicle trips. Transit oriented development can also lead better to social and health outcomes, encouraging people to walk, ride their bikes, and/or use public transit. Projects located near transit can also contribute to reducing vehicle traffic congestion. Transit oriented development also naturally encourages more connected communities by concentrating development around transit locations. As such, a key benefit of the Project is its proximity to transit which provides the additional benefits discussed above.

VIII. ADOPTION OF THE MITIGATION MONITORING AND REPORTING PROGRAM

The City Council adopts the mitigation measures set forth for the Project in the Final EIR and the Mitigation Monitoring and Reporting Program (MMRP) attached hereto as Exhibit A and

incorporated herein by this reference.

IX. SEVERABILITY

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

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 5th day of December 2022 by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk

Exhibit A – Mitigation Monitoring and Reporting Program (MMRP)

MITIGATION MONITORING AND REPORTING PROGRAM
ALDERSLY PLANNED DEVELOPMENT
 ZC20-001, UP20-022, ED 20-051

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<i>AIR QUALITY</i>					
Mitigation Measure AQ-1: Best Management Practices. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. Additional measures are identified to reduce construction equipment exhaust emissions. The contractor shall implement the following BMPs: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph). 5. 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. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny issuance of grading/demolition/building permit	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit		

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</p> <p>7. 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.</p> <p>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</p>					
<p>Mitigation Measure AQ-2: Selection of equipment during construction to minimize emissions.</p> <p>The project sponsor shall achieve a fleet-wide average reduction in DPM exhaust emissions from the onsite, off-road construction equipment by 65-percent or greater in order to stay below BAAQMD thresholds. One feasible way to achieve this reduction would include the following:</p> <ul style="list-style-type: none"> • All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines. Where Tier 4 equipment is not available, exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement. • All aerial lifts shall be compressed natural gas (CNG) powered. 	Require as a condition of approval	Planning Division Building Division	Incorporate as condition of project approval Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of grading/demolition/building permit	

MITIGATION MONITORING AND REPORTING PROGRAM

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Alternatively, the applicant can develop a different plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 65-percent reduction in diesel particulate matter (DPM) exhaust emissions or greater.</p> <p>BIOLOGICAL RESOURCES</p> <p>Mitigation Measure BIO-1: Avoidance of Nesting Birds. Nests of native birds in active use shall be avoided in compliance with State and federal regulations. Vegetation clearing and construction shall be initiated outside the bird nesting season (February 1 through August 31) or preconstruction surveys shall be conducted by a qualified biologist within a minimum of 300 feet from the project site where access is feasible and no more than seven days prior to any disturbance. If active nests are encountered (i.e., one containing eggs or young), a work-exclusion buffer shall be implemented around the nest commensurate with the nest location and species. In some cases, buffers may be as small as 25 feet for hidden nests (e.g., in tree or building cavities) and/or for urban adapted species; buffers may also extend up to 300 feet for raptors or more sensitive species. No construction activity shall occur within the established buffer until it is determined by a qualified biologist that the young have fledged (that is, left the nest) or the nest has become otherwise inactive (e.g. due to predation). At that time the buffer may be removed and work within the buffer resume.</p> <p>Mitigation Measure BIO-2 Roosting Bat Habitat Assessment and Surveys: Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. A qualified bat biologist shall have: 1) at least two years of experience conducting bat surveys that resulted in detections for relevant species, such as pallid bat, with verified project</p>	Require as a condition of approval	<div>Planning Division</div> <div>Building Division</div>	<div>Incorporate as condition of project approval</div> <div>Building Division verifies appropriate approvals obtained prior to issuance of building permit</div>	Deny issuance of grading/demolition/building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
names, dates, and references, and 2) experience with relevant equipment used to conduct bat surveys. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species). If suitable habitat trees are found, or bats are observed, mitigation measure BIO-3 shall be implemented.					
Mitigation Measure BIO-3 Roosting Bat Tree Protections: If the qualified biologist identifies potential bat habitat trees, then tree trimming and tree removal shall not proceed unless the following occurs: 1) a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establishes absence of roosting bats, or 2) tree trimming and tree removal occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, and tree removal occurs using the two-step removal process. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.	Require as a condition of approval	Planning Division Building Division	Incorporate as condition of project approval Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of grading/demolition/building permit	
CULTURAL AND TRIBAL CULTURAL RESOURCES Mitigation Measure CUL-1: Interpretation and Commemoration of Historic Resources. Prior to issuance of demolition permit(s), the project sponsor shall undertake the following measures to document and provide interpretation,	Require as a condition of approval	Planning Division Building Division	Incorporate as condition of project approval Building Division verifies appropriate	Deny issuance of grading/demolition/building permit	

MITIGATION MONITORING AND REPORTING PROGRAM
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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>commemoration, and salvage of the historic resources to be demolished, as outlined below:</p> <p>CUL-1a: Documentation. Prior to issuance of demolition permits, the project sponsor shall undertake Historic American Building Survey (HABS)/Historic American Landscape Survey (HALS)-style documentation of the property. The documentation shall be funded by the project sponsor and undertaken by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate) set forth in the Secretary of the Interior's Professional Qualification Standards (Code of Federal Regulations title 36, part 61). The documentation package created shall consist of the items listed below:</p> <ul style="list-style-type: none"> • CUL-1a-1: HABS-style Photographs • CUL-1a-2: HABS/HALS-style Historical Report • CUL-1a-3: HALS-style Site Plan • CUL-1a-4: Video Documentation <p>The documentation materials shall be offered to state, regional, and local repositories, including but not limited to, the Northwest Information Center (NWIC)-California Historical Resource Information System, San Rafael Public Library, the Marin County Free Library's Anne T. Kent California Room, and the Marin History Museum. Materials will either be provided in digital or hard copy formats depending on the capacity and preference of the repository.</p> <p>CUL-1a-1: HABS-style Photographs</p> <p>Digital photographs will be taken of the contributing buildings and landscape elements and the overall character and setting of the historic resource. All digital photography shall be conducted according to current National Park</p>			<p>approvals obtained prior to issuance of building permit</p>		

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

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Service standards as specified in the National Register Photo Policy Factsheet (updated May 2013). The photography shall be undertaken by a qualified professional with demonstrated experience in documentation photography. Large format negatives are not required. The scope of the digital photographs shall be reviewed and approved by the Planning Division’s staff for concurrence.</p> <p>Photograph views for the data set shall include contextual views of the site and each contributing landscape element and building; elevations of each façade of each building; and detail views of character-defining features. All photographs shall be referenced on a photographic key map or site plan. The photographic key shall show the photograph number with an arrow to indicate the direction of the view.</p> <p>CUL-1a-2: HABS/HALS-style Historical Report</p> <p>A written historical narrative and report will be produced that meets the HABS/HALS Historical Report Guidelines. This HABS/HALS-style Historical Report may be based on the documentation provided in the 2017 Historic Resource Evaluation for the site and will include historic photographs and drawings, if available. The written history shall follow the standard outline format that begins with a statement of significance for the historic district, describes the architectural and historical context of the district, and includes descriptions of each contributing building and landscape feature.</p> <p>CUL-1a-3: HALS-style Site Plan</p> <p>A HALS-style site plan shall be prepared that depicts the existing sizes, scale, dimensions, and relative locations of the contributing landscape elements and buildings related to the historic resource. Particular attention will be paid to the</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>arrangement and plantings of landscape features that are contributing resources to the historic resource. Documentation of all plantings is not required, but depiction of the locations and types of mature trees, and designed hardscape and landscape features shall be included.</p> <p>CUL-1a-4: Video Recordation. Video recordation shall be undertaken prior to the issuance of demolition permits. The project sponsor shall undertake a video documenting the historic resource and its setting. The documentation shall be conducted by a professional videographer, preferably one with experience recording architectural resources. The documentation shall be narrated by a qualified professional who meets the Secretary of the Interior’s Professional Qualification Standards for history, architectural history, or architecture (as appropriate). The documentation shall include as much information as possible—using visuals in combination with narration—about the materials, construction methods, current condition, historic use, historic context, and historic significance of the historic resource. The video documentation shall be reviewed and approved by the Planning Division’s staff prior to issuance of demolition permits.</p> <p>CUL-1b: Interpretation. The project sponsor shall provide a permanent display (or multiple displays) of interpretive materials concerning the history of Aldersly in the Northern California Danish-American community and the architectural features of the Aldersly Retirement Community campus as designed in the 1961-1968 master plan by master architect Rex Whitaker Allen. Interpretation of the site’s history shall be supervised by an architectural historian or historian who meets the Secretary of the</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Interior’s Professional Qualification Standards. The high-quality interpretive display(s) shall be installed within the project site boundaries, made of durable, all-weather materials, and positioned to allow for high public visibility and interactivity. In addition to narrative text, the interpretative display(s) may include, but are not limited to, a display of photographs, news articles, memorabilia, drawings, and/or video. A proposal describing the general parameters of the interpretive program shall be approved by the Planning Division’s staff prior to issuance of building permits. The content, media, and other characteristics of the interpretive display shall be approved by the Planning Division’s staff prior to issuance of a Temporary Certificate of Occupancy.</p> <p>CUL-1c: Salvage. Prior to any demolition or construction activities that would remove character-defining features of a resource that is a contributor to the historic resource on the project site, the project sponsor shall consult with a qualified architectural historian or historian who meets the Secretary of the Interior’s Professional Qualification Standards as to whether any such features may be salvaged, in whole or in part, during demolition/alteration. The project sponsor shall submit a list of materials that will be salvaged and reused either on the site or within the interpretive program to the Planning Division for review prior to the beginning of demolition on the site. The project sponsor shall make a good faith effort to salvage materials of historical interest to be utilized as part of the interpretative program. No materials shall be salvaged or removed until HABS/HALS-style recordation and documentation are completed.</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
Mitigation Measure CUL-2: Conduct Cultural Resources and Tribal Cultural Resources Sensitivity and Awareness Training Program Prior to Ground-Disturbing Activities. Prior to issuance of a building permit, grading permit, or demolition permit involving any potential ground disturbing activity, all construction contractor(s) responsible for overseeing and operating ground-disturbing mechanical equipment (e.g., onsite construction managers and backhoe operators) shall be required to participate in a cultural resources and tribal cultural resources sensitivity and awareness training program (Worker Environmental Awareness Program [WEAP]) for all personnel involved in Project construction, including field consultants and construction workers. The WEAP shall be developed by an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in archaeology, and by culturally affiliated Native American tribes.	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny issuance of grading/demolition/building permit	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit		

The WEAP training shall be conducted by an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in archaeology. A representative from the Federated Indians of Graton Rancheria (FIGR) shall be invited to participate in the training.

The WEAP training shall be conducted before any Project-related construction activities begin at the Project site. The WEAP will include relevant information regarding sensitive cultural resources and tribal cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations. The

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<p>WEAP will also describe appropriate avoidance and impact minimization measures for cultural resources and tribal cultural resources that could be located at the Project site and will outline what to do and who to contact if any potential cultural resources or tribal cultural resources are encountered. The WEAP will emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and will discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.</p> <p>The project sponsor shall maintain a record of all construction personnel that have received this training and provide the record to the City. These records shall be submitted to the City prior to issuance of a building permit involving any ground disturbing activity and shall be maintained by the applicant throughout the duration of the construction period. A final record shall be submitted to the City prior to issuance of a certificate of occupancy.</p> <p>Mitigation Measure CUL-3: Protect Archaeological Resources Identified during Construction. The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist and FIGR Tribal Monitor can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny issuance of grading/demolition/building permit	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit		

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<p>points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).</p> <p>Mitigation Measure CUL-4: Protect Human Remains Identified During Construction.</p> <p>In accordance with the California Health and Safety Code, if the find includes human remains, or remains that are potentially human, they shall ensure reasonable protection measures are taken to protect the discovery from disturbance (Assembly Bill [AB] 2641). The archaeologist shall notify the Marin County Coroner (per § 7050.5 of the Health and Safety Code) and the provisions of § 7050.5 of the California Health and Safety Code, § 5097.98 of the California PRC, and AB 2641 shall be implemented. If the coroner determines the remains are Native American and not the result of a crime scene, the coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the Project (§ 5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (§ 5097.94 of the PRC). If no agreement is reached, the landowner shall rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This shall also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume</p>	Require as a condition of approval	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	Deny issuance of grading/demolition/building permit	

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<p>within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.</p> <p>Mitigation Measure TCR-1: Survey of Site by Trained Human Remains Detection Dogs. Prior to the issuance of a grading or building permit, the project sponsor shall provide written evidence to the City's Community Development Department that a qualified consultant has been retained to conduct a survey of the site using trained human remains detection dogs. The survey shall be performed after the demolition of structures but prior to when trenching, grading, or earthwork on the site commences. If the survey results in the identification of an area potentially containing human remains, the area should be avoided. If avoidance is not feasible, then the City shall require that a professional archaeologist be retained to conduct subsurface testing, in the presence of a tribal representative from FIGR, to verify the presence or absence of remains. If human remains are confirmed, then the procedures in the PRC and Mitigation Measure CUL-3 shall be followed.</p>	Require as a condition of approval	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	Deny issuance of grading/demolition/building permit	
<p>Mitigation Measure TCR-2: Archaeological and Native American Monitoring and the Discovery of Cultural Materials and/or Human Remains.</p> <p>Prior to issuance of a grading permit or building permit, the project sponsor shall retain a Secretary of the Interior-qualified archaeologist, with input from the Federated Indians of Graton Rancheria (FIGR), to prepare a Cultural Resources Monitoring Plan. Monitoring shall be required during initial ground-disturbing activities and may be extended should the area be determined to require</p>	Require as a condition of approval	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	Deny issuance of grading/demolition/building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>monitoring of deeper sediments, according to a schedule outlined in the Cultural Resources Monitoring Plan. The plan shall include (but not be limited to) the following components:</p> <ul style="list-style-type: none">▪ Person(s) responsible for conducting monitoring activities, including an archaeological monitor and an appropriate number of FIGR Tribal monitors (number and kind of appropriate monitors to be determined in consultation with FIGR);▪ Person(s) responsible for overseeing and directing the monitors;▪ How the monitoring shall be conducted and the required format and content of monitoring reports, including schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;▪ Protocol for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, appropriate documentation, repatriation); and▪ Methods to ensure security of cultural resources sites, including protective fencing, security, and protocol for notifying local authorities (i.e. Sheriff, Police) should site looting or other resource damaging or illegal activities occur during construction. <p>During the course of the monitoring, the archaeologist, in consultation with FIGR Tribal monitor, may adjust the frequency—from continuous to intermittent—based on the</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
conditions and professional judgment regarding the potential to impact cultural and tribal cultural resources. If significant tribal cultural resources are identified onsite, all work shall stop immediately within 100 feet of the resource(s).					
GEOLOGY AND SOILS					
Mitigation Measure GE0-1: Prior to a grading or building permit submittal, the project sponsor shall prepare a final geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs. Recommended seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Geotechnical Investigation prepared by Rockridge Geotechnical, August 31, 2020.	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny issuance of grading/demolition/building permit	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit		
Mitigation Measure GE0-2: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny issuance of grading/demolition/building permit	
		Building Division	Building Division verifies appropriate approvals obtained prior to issuance of building permit		

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
biostratigraphy; and 5) experience collecting vertebrate fossils in the field.					
<p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p>					
<p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p>					
<p>"The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5."</p> <p>NOISE</p> <p>Mitigation Measure NOI-1: Construction Noise.</p> <p>Prior to the issuance of a grading permit or building permit, the project sponsor shall submit a Construction Noise Management Plan (CNMP) prepared by a qualified acoustical consultant. The CNMP shall identify noise attenuation measures to further reduce potential impacts related to construction noise. Noise attenuation measures include, but are not limited to, the following:</p> <p>a. Installation of a temporary noise barrier along the east and west property lines of the site. The barrier can be constructed with plywood or another appropriate material with cracks or no gaps. The purpose of the barrier is to provide a noticeable reduction of the noise and meet 90 dBA at residential receivers on neighboring properties along the common east and west property lines, where reasonably feasible. The height of the noise barrier, which may be up to 12 feet at certain locations, shall take into account the height of the construction noise sources and site grading and shall be specified in the Construction Noise Management Plan.</p> <p>b. All construction equipment shall be equipped with mufflers and sound control devices (e.g., intake silencers and noise</p>	Require as a condition of approval	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny issuance of grading/demolition/building permit</p> <p>Stop Work Order on construction activities until compliance with Construction noise thresholds can be met.</p>	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
shrouds) that are in good condition and appropriate for the equipment. c. Maintain all construction equipment to minimize noise emissions. d. Stationary equipment shall be located on the site to maintain the greatest possible distance to the existing residences, where feasible. e. Unnecessary idling of internal combustion engines shall be strictly prohibited. f. Provide advance notification to surrounding land uses disclosing the construction schedule, including the various types of activities that would be occurring throughout the duration of the construction period. g. The construction contractor shall provide the name and telephone number of an on-site construction liaison. If construction noise is found to be intrusive to the community (complaints are received), the construction liaison shall investigate the source of the noise and require that reasonable measures be implemented to correct the problem. h. Schedule high noise-producing activities during times when they would be least likely to interfere with the noise sensitive activities of the neighboring land use, when possible. i. Use noise control blankets on temporary fencing that are used to separate construction areas from occupied on-site areas. j. Temporarily relocate residents of on-site dwelling units that are very close to the construction activities. k. Consider upgrading windows to reduce construction noise at on-site dwelling units closest to the construction activities.					

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DEVELOPMENT DISTRICT (PD 1775) TO PLANNED DEVELOPMENT DISTRICT (PD) AND DEVELOPMENT PLAN INCLUDING 14 NET NEW INDEPENDENT LIVING UNITS FOR THE 2.9-ACRE SENIOR RETIREMENT COMMUNITY SITE LOCATED AT 308 AND 326 MISSION AVENUE

**(ALDERSLY RETIREMENT COMMUNITY)
(APNS: APN 014-054-31 AND 014-054-32)**

WHEREAS, on November 12, 2020, the applicant submitted applications for a Zone Change (ZC 20-001) to amend Planned Development District (PD 1775) to PD X; Master Use Permit (UP20-022); and Environmental and Design Review (ED 20-051) for the phased construction of new buildings, and demolition and alterations/additions to existing buildings, and including 14 net new Independent Living units for the 2.9-acre senior retirement community site located at 308 And 326 Mission Avenue; and

WHEREAS, the proposed PD District land use and development standards for the property are presented in Exhibit B, and the new PD proposes to:

- a) Allow the Aldersly Retirement Community to evolve to meet the needs of current and future residents;
- b) Provide flexibility to meet future needs of its residents with facilities providing best design and practices in services and environments, including a combination of improvements to campus connectivity, renovations to current facilities, expansion of some buildings, and new construction;
- c) Establish the permitted land uses for the new PD district; and
- d) Establish development standards appropriate for the new District and Development Plan.

WHEREAS, on December 7, 2021, the project was considered by the Design Review Board (DRB), and after considering the revisions made to the design of the Mission Avenue Independent Living building and the bioretention areas and landscape screening, the Board recommended approval of the project; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines (Cal. Code of Regulations, Title 14, Section 15000 et seq.) an analysis and determination regarding a project's potential environmental impacts is required, and it was determined that the project has the potential to result in potentially significant environmental effects, and the preparation of an Environmental Impact Report ("EIR") was recommended; and

WHEREAS, a Draft EIR was prepared and made available for a 45-day public review period beginning on August 16, 2022 and ending on September 30, 2022; and

WHEREAS, the San Rafael Planning Commission held a public comment hearing on the Draft EIR on September 13, 2022; and

WHEREAS, the San Rafael Planning Commission has recommended certification of the Final EIR by adoption of a separate resolution; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all measures required to mitigate any environmental impact; and all of the identified mitigation measures have also been included as conditions of the project approval; and

WHEREAS, notice of the Planning Commission public hearing was provided through the following means: 1) the subject site was posted; 2) publishing a legal ad in the Marin Independent Journal, a local newspaper of general circulation in the area, on October 29, 2022; and 3) notices were mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, on November 15, 2022, following a public hearing and deliberation on the project, the Planning Commission voted 4-0-3-0 and adopted Planning Commission Resolutions 22-16, 22-17 and 22-18 recommending that the City Council 1) Certify the Final EIR and adopt a Mitigation Monitoring and Reporting Program for the project; 2) adopt an Ordinance approving a zoning amendment from Planned Development District (PD1775) to a revised Planned Development District (PD) ZC 20-001; and 3) conditionally approve the Master Use Permit (UP20-022) and Environmental and Design Review Permit 20-051; and

WHEREAS, on December 5, 2022, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on December 5, 2022, by adoption of separate resolution, the City Council certified the Final EIR and adopted an MMRP for the project; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department; and

WHEREAS, as required by San Rafael Municipal Code Sections 14.07.090 and 14.27.060, the City Council makes the following findings in support of an ordinance to rezone the property from Planned Development District PD 1775 to a new Planned Development District (PD), as shown on the map contained in **Exhibit A** and further described in **Exhibit C**, and to establish new PD Development Standards as outlined in **Exhibit B**:

1. The Development Plan is consistent in principle with the San Rafael General Plan 2040 and other applicable City plans or policies in that the project includes appropriate development standards, and is subject to an Environmental and Design Review Permit implementing the intent of Chapter 14.25 (Environmental and Design Review Permit) of the San Rafael Zoning Ordinance (Title 14 of the San Rafael Municipal Code), Subdivision Ordinance (Title 15 of San Rafael Municipal Code), and the applicable General Plan land use policies, as described in the General Plan Consistency Analysis included as Exhibit 5 of the November 15, 2022 Planning Commission staff report.
2. The applicant proposes to add 14 net new Independent Living units, which will help serve to accommodate the projected need for 3,220 additional housing units in the City by the year 2031. The proposed new buildings create a reasonable transition between the existing residential properties in the neighborhood and the multi-family and commercial properties to the south. Further, the development plan has been reviewed and recommended for approval by the Design Review Board.
3. The local utility agencies have reviewed the plans and confirmed that the proposed development can be served by public facilities such as sewer, water, refuse services and other infrastructure resources that currently serve the existing development adjacent to the site.
4. The applicant has developed property development standards for the new PD zoning, that

are consistent with the proposed property development standards of the underlying base district. The proposed new development has been designed to comply with the applicable PD development standards, and the proposed project is not requesting any deviations (Variances) from land use regulations.

5. The auto, bicycle and pedestrian traffic systems presented on the Development Plan are adequately designed for circulation needs and public safety in that: a) the Development Plan proposes sidewalks throughout the development for pedestrian access; b) emergency vehicle ingress and egress from the development would be provided from adjacent public streets (Mission and Belle Avenue); and c) the access and site layout have been reviewed by the appropriate City departments and have been found to be adequate by the City of San Rafael Fire and Police Departments.
6. The public health, safety and welfare are served by the adoption of the proposed PD District, in that the project as proposed and conditioned: a) would implement housing and environmental goals and policies adopted for this site in the San Rafael General Plan 2040; b) would conform to City standards for safety; c) as proposed, and conditioned, it would be consistent with the recommended mitigation measures presented in the Final EIR and the MMRP prepared for this project.

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

DIVISION 1.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from Planned Development District PD 1775 to a new Planned Development District (PD) -- Ordinance No. XXXX. Said property so reclassified is located at 308 and 326 Mission Avenue, San Rafael, and further identified as County Assessor's Parcel No's: APN 014-054-31 and 014-054-32, as shown on the map attached as Exhibit "A" and described in Exhibit "C", which are incorporated by reference.

DIVISION 2.

Any development of this property shall be subject to the conditions outlined in Exhibit "B", *PD Zoning and Planned Development Standards for Aldersly*, which is attached hereto and made a part hereof, and consistent with all submitted materials that constitute the Development Plan, as required by Section 14.07.060 of the San Rafael Municipal Code.

DIVISION 3.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

DIVISION 4.

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

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

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

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 5th day of December 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the 19th day of December 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Exhibit A: Zone Change Map
Exhibit B: Planned Development District Standards
Exhibit C: Legal Property Description



EXHIBIT B

PD Zoning and Master Plan and Development Standards for Aldersly

The Planned Development (PD) zoning and Master Plan for the Aldersly campus will allow the Aldersly Retirement Community to evolve to meet the needs of current and future residents for the next 20 years.

Site Description & Setting

The Aldersly is a lifespan residential community, providing independent and assistive live, and rehabilitative care and skilled nursing. The campus 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. The campus is located within the Montecito/ Happy Valley Neighborhood, one of San Rafael's oldest neighborhoods, close to Downtown San Rafael. 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. The PD zoning prior to this Master Plan was Ordinance No. 1775.

The PD provides the Aldersly Board a plan with the flexibility to meet future needs of its residents with facilities providing best design and practices in services and environments. This plan includes a combination of improvements to campus connectivity, renovations to current facilities, expansion of some buildings, and new construction. The overall goal of the Master Plan is to keep Aldersly a boutique residential community for older people looking for a home with *hygge* – Danish for the experience of coziness and comfortable conviviality that engenders feelings of contentment and well-being.

To this end, the PD proposes the following standards to enable sustainability of the residential community and improvements to the unique design of Aldersly.

A. Land Uses

Consistent with the High Density Residential land use district, the following use are allowed in the Aldersly Planned District (similar to the high density zoning categories):

- Independent living units for older adults (60 and older)
- Assisted living units for older adults (housing for people needed assistance with activities of daily living)
- Memory care units for older adults with dementia
- Skilled nursing facility with clinic and rehabilitative services
- Ancillary support to serve residents' needs (e.g., laundry, beauty, dining, retail, recreation facility, community meeting rooms, food service, healthcare, hospice, storage buildings)
- Administrative services (offices, maintenance, landscaping)
- Any substantive change in use of existing buildings on the site shall require an amendment to the Master Use Permit.

B. Minimum Lot Area

The minimum lot area is 6,000 square feet (same as the HR1.8 zoning district).

C. Minimum Lot Area per Dwelling Unit

The Aldersly campus is approved to include:

- 69 independent living units for older adults
- 35 assisted living/memory care units for older adults
- 20 skilled nursing beds

D. Minimum Lot Width

Because of the existing configuration of campus and its compact, high-density character, no minimum lot width is established.

E. Setbacks/Minimum Yards

- Maintain a fifteen-foot (15') front yard building setback along Mission Avenue, (same as the HR1.8 zoning district).
- Maintain a five-foot (5') side yard building setback.
- Maintain a five-foot (5') rear yard building setback along Belle Avenue, (same as the HR1.8 zoning district).
- Existing Conditions. Buildings existing at the time this Master Plan is adopted and not meeting the setback standards established above shall be considered conforming buildings.

F. Distance Between Residential Structures

Provide and maintain building separations that conform to codes governing the Aldersly campus at the time of construction permitting.

G. Maximum Height of Structures

The maximum height of structures is 36 feet (36') except where allowed per the City Zoning definitions, exceptions, or height bonus regulations.

Existing Conditions: Buildings existing at the time this plan is adopted and not meeting the height standards established above shall be considered conforming buildings.

H. Maximum Lot Coverage

Total building footprints on the campus shall not exceed 60% of the campus land area (same as the HR1.8 zoning district).

I. Minimum Usable Outdoor Area per Dwelling Unit

Each resident has access to a private usable outdoor area of variable size (for independent living units) and/or to communal outdoor areas (for assisted living/memory care and skilled nursing residents). Because of the extensive outdoor areas provided for all residents, no minimum is established for usable outdoor area per dwelling unit.

J. Landscaping/Yard Areas

- i. Landscaping and yard areas requirements are not established due to the single ownership of the campus, the communal nature of exterior areas, and the desire to maintain planning flexibility.
- ii. Open Space: The campus pattern of tightly landscaped pathways, terraces, open courtyards and decks, and garden areas will be replicated to the extent feasible as approved through design review.

K. Parking

Aldersly was built before the prevalence of automobiles, and the campus' topography severely limits parking opportunities on campus. The Master Plan reflects the goals of the campus design to maximize landscaping onsite. For these reasons, the PD standards provide substantial flexibility.

i. Parking Capacity.

Parking will be provided consistent with the Parking Study and recommendations. There are currently 48 spaces on site. Up to eight (8) additional spaces will be provided. At buildout, there will be a maximum of 56 on-site parking spaces.

Additional parking, such as a valet parking program for special events, will be implemented as needed, consistent with the Use Permit.

ii. Parking Space Dimensions

Parking space dimensions shall comply with City standards.

iii. Allowable Compact Spaces

The allowable percentage of compact spaces shall comply with City standards.

L. Parking Lot Screening

i. Parking Visible from Public Right of Way

Parking visible from a public right of way shall be screened in accordance with the requirements contained in San Rafael's Zoning Ordinance.

ii. Parking Adjacent to Neighboring Lots

Maintain a three-foot (3') side yard setback of landscaped buffer between parking and circulation areas and adjacent lots. To maximize parking and accessibility and where a 3' setback is not practical, a 0' setback applies and a minimum five foot (5') solid barrier shall be provided for screening along the lot line.

iii. Canopy Trees at Parking

One tree for every four spaces will be provided within parking areas or at an alternate location as close to the parking area as feasible. Flexibility in the location of the trees is required in order to maximize the parking available. Innovative strategies for locating trees within parking areas without diminishing parking capacity will be implemented.

iv. Planting Areas between Spaces

No planting areas will be provided between parking spaces due to the need to maximize on-site parking. Alternate strategies for landscaping the parking areas will be implemented as feasible.

M. Off-Street Loading and Unloading

A new off-street truck loading and unloading area will be provided for the campus along Belle Avenue, as shown on sheet A3.5 in the approved plans.

N. Phasing Plan

There are three phases to the Master Plan to implement Aldersly's vision:

PHASE 1 Build new Independent Living Building, Relocate the Campus Reception/Entry to street level, Expand Community Space, and Improve Central Courtyard.

Phase 1A Add new independent living building.

1. Remove independent 12-studio units in three small buildings (Liselund, Marselisborg and Graasten)
2. Construct new independent living 35-unit building. Includes the relocation of Aldersly's main entrance and administrative offices to street level on Mission Avenue for better accessibility for residents and visitors. (An elevator and an interior connection to Fredensborg will enable sheltered ADA access to upper levels on the hillside site.)
3. Provide nine parking spaces in the new building, five guest parking spaces at the new main entrance, and up to eight (8) surface parking spaces along the driveway to Rosenberg. Implement a parking management program (i.e., shared car services, event valet parking and stacked parking).
4. Expand community space with a café, rooftop lounge, arts & crafts/activity room, and a conference room/pre-function room.

Phase 1B: New entry courtyard and outdoor amenity.

1. Improve central courtyard. Improve outdoor spaces with new gathering spaces and landscaping, including historic elements.

PHASE 2 Add new service connector/facility.

Phase 2: Construct new service building.

1. Remove 8-unit independent living Minor Building.
2. Construct a new service building, with service elevator connections to Rosenberg and Kronborg to improve service access for delivery, refuse and maintenance back-of-house spaces for increased efficiency.
3. Provide new trash room within service building with access to Belle Avenue.
4. Expand Memory Care garden on Minor building site.

PHASE 3 West Campus Independent Living

Phase 3A: Add new independent living buildings.

1. Remove 14 units independent living units in two buildings (Amalienborg and Sorgenfri).
2. Construct 15 independent living units in new building.

Phase 3B: Renovate 4 independent living units (Frederiksborg). Remove and replace four other independent living units (Frederickborg). Add four new parking parking spaces.

Design review will be conducted as Phases 2 and 3 are implemented. The level of design review shall be consistent with zoning requirements.

The 2022 PD District is intended to continue Aldersly's role as a community asset by renovating the campus to be a valued residential community for older adults who want to live in central San Rafael close to shops and other amenities, downtown activities and transit. The Master Plan reflects the need of Aldersly to remain relevant to baby boomer older adults who are looking for a senior residential community as they age into their 80s and older. In addition to the phases above, Aldersly will make interior renovations as needed to Fredensborg (dining and resident amenities), Kronborg (skilled nursing facility), Rosenborg (Assisted Living and Memory Care), and Christriansborg (independent living) to maintain a high level of service. Appropriate building permits will be secured at the time of interior improvements.

Aldersly Property (326 and 308 Mission Ave.)

The land referred to is situated in the County of Marin, City of San Rafael, State of California, and is described as follows:

PARCEL ONE:

BEGINNING at a point on the Northerly line of Mission Street, distant thereon 362.5 feet Easterly from the Easterly line of Grand Avenue as said Street and Avenue are shown on the Map of "Coleman's Addition to San Rafael," filed December 24, 1888 in Book 1 of Maps at Page 39, Marin County Records; said point also being the Southwest corner of that certain parcel of land described in the Deed from Henry Schlosser, et ux, to J. D. Spreckles, Jr., recorded September 5, 1907 in Book 110 of Deeds at Page 348, Marin County Records; thence leaving said line of Mission Avenue and running along the Westerly line of said Deed to Spreckles, North 25° 15' East 125.5 feet and North 30° 30' East 210.7 feet to the Southerly line of Belle Avenue; running thence Southeasterly and Easterly, along said Southerly line of Belle Avenue, to the Westerly corner of the Lot conveyed to Carlo Pedroli by deed recorded January 22, 1934 in Book 226 of Official Records at Page 146, Marin County Records; thence leaving said line of Belle Avenue and running South 64° 13' East 53.95 feet to the Northwest corner of the Lot conveyed to John M. Lucas and Murial C. Lucas, his wife by Deed recorded May 12, 1943 in Book 443 of Official Records at Page 458, Marin County Records; thence along the Westerly line of said Lot 50 conveyed to Lucas and along the Westerly line of the Lots conveyed to Ruth M. Valiquette by Deed recorded June 14, 1943 in Book 449 of Official Records at Page 4, Marin County Records; to Jennie Eggan and Karl Eggan, her husband, by Deed recorded January 24, 1945 in Book 481 of Official Records at Page 51, Marin County Records, to Evelyn Loper by Deed recorded April 29, 1943 in Book 443 of Official Records at Page 373, Marin County Records, South 24° 17' West 200 feet to the Northerly line of the Lot conveyed to Walter M. Magraw and Lorraine S. Magraw, his wife, by Deed recorded August 4, 1943 in Book 449 of Official Records at Page 155, Marin County Records; thence Westerly along said Northerly line 10 feet, more or less, to the Northwest corner of the lot so conveyed to Magraw; thence Southerly along the Westerly line of said Lot, 84 feet, more or less, to the Northerly line of Mission Street; thence Westerly along said Northerly line, 430.25 feet, more or less, to the point of beginning.

PARCEL TWO:

THOSE CERTAIN EASEMENTS, 2 feet in width for utility purposes, as reserved in the following Deeds from Frank Healion and Catherine Healion, his wife (A) To John M. Lucas recorded May 12, 1943 in Book 443 of Official Records at Page 458, Marin County Records. (B) To Jennie Eggan, et con, recorded January 24, 1945 in Book 481 Official Records at Page 51, Marin County Records. (C) To Ruth M. Valiquette, recorded June 24, 1943 in Book 449 of Official Records at Page 4, Marin County Records. (D) To Evelyn Loper, recorded April 29, 1943 in Book 443 of Official Records at Page 373, Marin County Records.

PARCEL THREE:

COMMENCING at a point on the Northerly line of Mission Street, North $68^{\circ} 05'$ West, 55.0 feet from the point formed by the intersection of the Northerly line of Mission Street with the Westerly line of Union Street, as the same is shown on the Map of Coleman's Addition to San Rafael, filed in the Office of the County Recorder in Book One of Maps on Page 39, Marin County Records; thence leaving Mission Street and running Northerly parallel to the Westerly line of Union Street, a distance of 84.0 feet, more or less, to the Southwesterly line of the property described in Deed of Trust from Frank Healion and Catherine Healion, his wife, to Bank of San Rafael, a corporation, recorded December 9th, 1942 in Liber 440 of Official Records at Page 115; thence along said line and its continuation North $64^{\circ} 13'$ West 55 feet; thence Southwesterly in a direct line to a point in the Northerly line of Mission Street, distant thereon Westerly, 55 feet from the point of beginning; thence Easterly along said Northerly line of Mission Street, 55 feet to the point of beginning. BEING A PORTION of Block 25 of the abovementioned Subdivision.

APN: 014-054-31 and 014-054-32

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING THE MASTER USE PERMIT AMENDMENT (UP20-022) AND ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED20-051) FOR THE ALDERSLY RETIREMENT COMMUNITY AT 308 AND 326 MISSION AVENUE (APN 014-054-31 and 32)

WHEREAS, on November 12, 2020, Peter Schakow, President of the Aldersly Board of Directors (applicant), submitted applications to the City of San Rafael requesting approval of a Zoning Amendment to revise the Planned Development for the Aldersly Retirement Community that would allow for the phased improvements on the campus that include demolition and renovation of existing buildings, and construction of new buildings; and

WHEREAS, the applications included concurrent requests for a Planned Development (PD) District Rezoning (ZC20-001), Master Use Permit (UP20-022) and Environmental and Design Review Permit (ED20-051); and said project applications were deemed complete on March 19, 2021; and

WHEREAS, on December 7, 2021, the City of San Rafael Design Review Board held a duly-noticed public hearing on the Environmental and Design Review Permit, accepting all oral and written public testimony and the written report of the Community Development Department staff and recommended approval of the Environmental and Design Review Permit; and

WHEREAS, on November 15, 2022, the City of San Rafael Planning Commission held a duly-noticed public hearing on the proposed Master Use Permit and Environmental and Design Review Permit, accepting all oral and written public testimony and the written report of the Community Development Department staff and recommended approval of the Master Use Permit and Environmental and Design Review Permit; and

WHEREAS, on December 5, 2022, the City Council of the City of San Rafael held a duly-noticed public hearing on the proposed Master Use Permit and Environmental and Design Review Permit, accepting all oral and written public testimony and the written report of the Community Development Department staff; and

WHEREAS, the City Council of the City of San Rafael has certified an Environmental Impact Report (EIR) for the proposed project consistent with the requirements of the California Environmental Quality Act; and

NOW THEREFORE BE IT RESOLVED, the City Council of the City of San Rafael hereby conditionally approves Master Use Permit UP20-022 and Environmental and Design Review Permit ED20-051 based on the following findings required by San Rafael Municipal Code (SRMC) Title 14-Zoning:

**Findings for Master Use Permit
(UP20-022)**

- 1. The proposed use is in accord with the general plan, the objectives of the zoning ordinance, and the purposes of the district in which the site is located:**

The proposed use is consistent with General Plan 2040, adopted Montecito/Happy Valley Neighborhood Plan and other applicable City plans and policies in that:

- a) The proposed use is consistent with the objectives of the Zoning Ordinance, and the

purposes of the PD District in which the site is located in that the General Plan High Density Residential land use designation and the Planned Development zoning district regulations permit the proposed expansion of the Aldersly campus.

- b) The proposed use is a continuation of the existing use as a non-profit retirement community that supports the City's goal of serving older adults and enhancing their quality of life as called for in **General Plan Goal EDI-6: An Age-Friendly Community**. The new and expanded independent living units and other improvements would attract new residents and enhance the living experience of existing residents. The second dining venue, lounge and gathering spaces, and core active space would provide additional areas for residents to meet and socialize. The outdoor garden for the Memory Care Center and other outdoor experiences would elevate the campus' outdoor living experience. The site accessibility improvements would make it easier for residents to move about the campus.
- c) The project would implement **Housing Policy H-13: Senior Housing** providing housing options that meet the needs of San Rafael's older population. The Project would increase the City's supply of independent living units in a residential facility that provides additional services for older adults. Independent living units provide older adults the option to live in a supported community with the experience of living on their own. The 14 net new independent living units are also an option for older adults seeking to downsize from their single-family homes, and would contribute toward meeting the City's regional housing needs allocation (RHNA) by adding to the City's housing inventory.
- d) The Project would implement **General Plan Policy EV-3.3: Economically Productive Use of Land** by making the most of the development potential of the Aldersly campus. The project would provide modernized and larger independent living units and other improvements within the footprint of the existing campus that would ensure that Aldersly can remain competitive and operate sustainably as a non-profit into the future and continue to provide a home for older adults and retain its employees.
- e) **Policy LU-1.3: Land Use and Climate Change**. The project site is located north and east of the Downtown San Rafael, 0.4 miles from the SMART Downtown San Rafael Station in an area where alternatives to driving are most viable and shorter trip lengths are possible.
- f) **Policy M-3.8: Land Use and VMT**: Encourage higher-density employment and residential uses near major transit hubs such as Downtown San Rafael, recognizing the potential for VMT reduction in areas where there are attractive alternatives to driving, concentrations of complementary activities, and opportunities for shorter trips between different uses. The Project would increase the overall density of the Aldersly campus with 35 modernized and larger independent living units and other amenities such as the second dining venue and lounge/gathering spaces. The Project is within one half mile of the San Rafael Transit Center which is served by SMART, Marin Transit, Golden Gate Transit, and Sonoma County Transit, and is near commercial and retail uses in Montecito Plaza downtown San Rafael.
- g) **Policy M-7.6: Off-Street Parking Standards**. Maintain off-street parking standards that adequately respond to demand, minimize adverse effects on neighborhoods, avoid future parking problems, and sustain local businesses.

Per recent State legislation (AB 2097), minimum parking requirements cannot be imposed or enforced in any residential, commercial, or other development project located within ½ mile of public transit after January 1, 2023. Since construction will not commence until after that date, Policy M-7.6 is not applicable to this project. Nevertheless, the project would voluntarily provide eight (8) additional on-site parking spaces over what exists today. In addition, a condition of the Use Permit would require that Aldersly implement a Parking Management Strategy to maximize on-site parking during peak periods and reduce the use of on-street parking in the neighborhood.

2. The proposed use, together with the conditions applicable thereto, will not be

detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city:

The proposed use, as conditioned, will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the City. The proposed use and the overall project has been reviewed by all appropriate City Departments and permitting agencies and has been conditioned accordingly to avoid such detriment. Furthermore, mitigation measures identified in the Final EIR and included in MMRP include measures to protect the public health, safety, and welfare.

3. The proposed use complies with each of the applicable provisions of the zoning ordinance:

The proposed mix of residential dwelling units and communal facilities comply with the applicable provisions of the Planned Development (PD) District contained in the Zoning Ordinance and all other applicable provisions of the Zoning Ordinance, as discussed in Use Permit Finding 1 above, as well as discussed in the PD District and Environmental and Design Review Permit findings made for the project.

**Findings for Environmental and Design Review Permit
(ED20-051)**

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

The phased development, as conditioned, is in accord with the General Plan, the Neighborhood Plan, objectives of the Zoning Ordinance in that the Design Review Board has reviewed the project for compliance with the General Plan Policies and Montecito/Happy Valley Neighborhood Plan Policies as further described in Master Use Permit Findings above, and the Landscape, Parking, Building and Site Design Criteria in the Zoning Ordinance, and has recommended that the project meet the established criteria by providing a high quality design and materials that are appropriate for the site and neighborhood.

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

The project is consistent with applicable regulations contained in the City of San Rafael Zoning Ordinance, including site, architecture and landscaping design criteria established in the PD development standards which is in compliance with General Plan 2040 and the Planned Development zoning regulations. The project sufficiently screens buildings and parking areas with landscaping.

3. The project design minimizes adverse environmental impacts:

The project is consistent with the following policies in General Plan 2040, which aim at reducing impacts on the environment:

- Policy CDP-5.13: Protection of Archaeological Resources
- Policy CDP-5.14: Tribal Cultural Resources
- Policy C-1.13: Special Status Species
- Policy C-2.4: Particulate Matter Pollution Reduction
- Policy C-3.2: Reduce Pollution from Urban Runoff
- Policy C-3.3: Low Impact Development
- Policy C-3.9: Water-Efficient Landscaping
- Policy C-5.2: Consider Climate Change Impacts
- Policy N-1.2: Maintaining Acceptable Noise

- Policy N-1.9: Maintaining Peace and Quiet
- Policy M-3.2: Using VMT in Environmental Review

4. The project design would not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity:

The project has been reviewed by all appropriate City Departments and permitting agencies and conditioned accordingly, and the potential environmental impacts of the project were assessed pursuant to the California Environmental Quality Act, a Final Environmental Impact Report (EIR) was prepared for the project and mitigation measures included in the MMRP would further protect health and safety.

BE IT FURTHER RESOLVED, that the City Council of the City of San Rafael approves the Master Use Permit and Environmental and Design Review Permit subject to the following conditions:

**MASTER USE PERMIT CONDITIONS OF APPROVAL
(UP20-022)**

Planning Division Conditions of Approval

1. Approved Use. This Use Permit authorizes development of the 2.9-acre Aldersly campus at 326 Mission Avenue in accordance with the Planned Development (PD) District approval (ZC20-001), which lists the permitted uses including +14 net new Independent Living units, Assisted Living and Skilled Nursing uses. The Community Development Director may review and approve amendments to the Master Use Permit, which are within the limits of the approved PD District (ZC20-001) and the PD zoning regulations.
2. Permit Validity. This Permit shall become effective on _____, **2022** and shall be valid for a period of two (2) years from the date of final approval, or _____, **2024**, and shall become null and void if a building permit is not issued or a time extension granted by _____, **2024**. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
3. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.
4. Revocation. The City reserves the right to bring this permit up for revocation per SRMC 14.21.150 and as provided in Chapter 14.30 of the San Rafael Zoning Ordinance for any use that is found to be in violation of any of these conditions of approval.
5. Building Permit Required. The applicant shall obtain a building permit prior to any building improvements to meet the requirements per the California Building Code (CBC). Conditions Shall be Printed on Plans. The conditions of this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions.' Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.
6. Development of the site (i.e., the building design and location, scale, architecture, landscaping and similar improvements) shall be completed in accordance with a valid (i.e. not expired) Environmental and Design Review Permit approval.
7. The Master Use Permit shall be subject to the Environmental and Design Review Permit (ED20-

051) conditions of approval. Truck delivery schedules to the Aldersly campus shall be coordinated with drop-off and pick-up times at child daycare and schools in the neighborhood to reduce the potential for conflicts on Belle Avenue.

8. Prior to the issuance of an occupancy permit for any new building on the Aldersly campus, a Parking Management Strategy shall be submitted for review and approval by the Director of Public Works and the Director of Community Development. The Parking Management Strategy shall identify strategies and methods to increase on-site parking capacity and reduce the overall demand for parking, particularly during peak parking demand at 2:30 pm on weekdays during the staff shift change. The Parking Management Strategy may include, but is not limited to, the following strategies:
 - a) **Support transit use by employees and visitors:** Aldersly employees currently have the option of purchasing transit passes before taxes are taken out of their wages, which provides a savings for users. The site is served by a number of transit options as it is less than one-half mile from the San Rafael SMART station and Transit Center. While for most people this is a walkable distance, Aldersly could further encourage transit use by providing van service as needed to transport people to and from these connections. To make transit use a viable option for employees, this may require providing some flexibility in shift times to allow them to make convenient connections.
 - b) **Provide public transportation information:** As some staff and residents may be unaware of the available public transportation options, providing information about train and bus schedules, accommodations for bicycles on transit vehicles, and the availability of the Marin Emergency Ride Home (ERH) program would support increased transit use. The ERH program, operated by the Transportation Authority of Marin, reimburses rides home in case of an emergency for workers in Marin County who use an alternative transportation option, such as carpooling, vanpooling, public transit, bicycling, or walking. For many people, the availability of this program can make non-vehicle transportation a viable option as it addresses unforeseen circumstances when vehicle transportation may be necessary.
 - c) **Offer Car Sharing and Driver Services:** The average age of residents in the independent living units is 88 years old and those with cars tend to drive infrequently. By offering car sharing or driver services for errands, appointments, or other trips, these residents may be more inclined to not bring a vehicle and/or relinquish their vehicles and parking spaces.
 - d) **Prepare a Valet Parking Plan:** Aldersly currently provides valet parking during events. The purpose of the Valet Parking Plan would be to increase on-site parking by up to 13 spaces, as needed during non-event scenarios. The Valet Parking Plan would be approved by the Director of Public Works and the Director of Community Development.
 - e) **Install lift system:** A parking lift system would enable vehicles to be stacked vertically and expand the on-site parking supply. Given the minimal use of vehicles by most residents, the Aldersly could maneuver vehicles as needed.

The Parking Management Strategy shall be implemented prior to occupancy of the Mission Avenue Independent Living building.

9. All biohazardous waste generated on the Aldersly campus, including but not limited to used bandages/dressings, out-of-date prescription medication and sharps/needles shall be stored in appropriate containers until they are picked up and shall be disposed of by a service that is licensed to handle such materials.
10. The applicant or permittee shall defend, indemnify, and hold harmless the City or its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul an approval of the Planning Commission, City Council, Community Development Director, or any other department, committee, or agency of the City concerning a development, variance, permit or land use approval which action is brought within the time period provided for in any applicable statute; provided, however, that the applicant's or permittee's duty to so defend, indemnify, and hold harmless shall be subject to the City's promptly notifying the applicant or permittee of any said claim, action, or proceeding and the City's full cooperation in the applicant's or permittee's defense of said claims, actions, or proceedings.

**ENVIRONMENTAL AND DESIGN REVIEW PERMIT
CONDITIONS OF APPROVAL
(ED20-051)**

Police Department

1. The street numbers shall be displayed in a prominent location on the street side of the property in such a position that the number is easily visible to approaching emergency vehicles. The numbers shall be no less than four inches (4") in height and shall be of contrasting color to the background to which they are attached. The address numbers shall be illuminated during darkness.
2. The address shall be in a sequence with the numerical order of the rest of the street/building.
3. Exposed roof vents and ducts shall be grated or constructed of an impact resistant material to the satisfaction of the police department. Skylights shall be secured and hatch openings shall be burglary resistant. Glazing shall be of a burglary resistant glass or glass-like material.
4. All exterior lighting shall be sufficient to establish a sense of well-being to the pedestrian and one that is sufficient to facilitate recognition of persons at a reasonable distance. Type and placement of lighting shall be to the satisfaction of the Police Department.
5. All exterior doors shall be of solid core construction with a minimum thickness of one and three fourths inches (1-3/4") or with panels not less than nine sixteenth inches (9/16") thick. Side garage doors and doors leading from these garage areas to private residences or multiple dwelling residences are included in this requirement.
6. Metal-framed glass doors shall be set in metal door jambs.
7. Glass sliding doors shall have a secondary type locking device to the satisfaction of the police department. The secondary lock shall be a dead bolt and shall be no less than 1/8 inch in thickness and shall have a minimum hardened steel throw of 1/2 inch.
8. Exterior man doors and doors leading from the garage areas into the private residences or multiple dwelling residences, shall have a dead bolt locking device with a minimum throw of 1/2 inch. A secondary lock is required and shall be a dead bolt lock with a cylinder guard and a hardened steel throw that is a minimum of 1 inch long. Both locking mechanisms shall be keyed the same.
9. Metal framed glass doors shall have a dead bolt lock with a cylinder guard and a hardened steel throw that is a minimum of one inch long.
10. Exterior jambs for doors shall be so constructed or protected so as to prevent violation of the function of the strike plate from the outside. The strike plate shall be secured to the jamb by a minimum of two screws which must penetrate at least two inches into the solid backing beyond the jamb.
11. Front doors shall have a front door viewer that provides a minimum of 180 degrees peripheral vision.
12. Exterior doors that swing outward shall have non-removal hinge pins.
13. In-swinging exterior doors shall have rabbeted jambs.
14. Glass on exterior doors or within 40 inches of an exterior door shall be break resistant glass or glass-like material to the satisfaction of the Police Department.
15. All windows within 12 feet of the ground level shall have a secondary lock mounted to the frame of the window. The secondary lock shall be a bolt lock and shall be no less than 1/8 inch in thickness. The lock shall have a hardened steel throw of 1/2 inch minimum length.
16. Any window within 40 inches of an exterior door shall be stationary and non-removable.
17. Landscaping shall not block or obstruct the view of any door, window, or lighting fixture.
18. Any alternate materials or methods of construction shall be reviewed with the Crime Prevention

Officer before installation.

19. The new construction shall be pre-wired for the installation of an intrusion alarm system.

Fire Department

20. Addresses shall be posted conforming to Fire Prevention Standard 205.
21. Based on Uniform Building Code or Fire Code requirements, an automatic fire sprinkler system shall be installed throughout conforming to NFPA Std.13D.
22. A permit application shall be submitted to the Fire Prevention Bureau with two sets of plans for review prior to the installation of all automatic and fixed fire extinguishing and detection systems. Specification sheets for each type of device shall also be submitted for review.
23. Due to the wildland fire interface area, fire retardant roof covering is required with a minimum Class "A" listing.
24. Spark arrestors shall be installed conforming to the UBC.
25. A minimum 30-foot wide break (brush cleaning) shall be maintained around the structure.
26. UL/SFM smoke detectors and openable bedroom windows shall be installed conforming to the Uniform Building Code.
27. An engineered site plan showing all existing and proposed site conditions shall be submitted with the application for a building permit.

Community Development Department, Building Division

28. A level "B" soils report shall be submitted with the application for a building permit.
29. The project soils engineer shall review and approve the plans submitted for a building permit for compliance with the recommendations of the project soils report.
30. A construction soils certification letter shall be submitted by the project soils engineer prior to approval of the building final inspection
31. An erosion control plan using "best management practices" shall be submitted with the application for a building permit. The plan shall show methods of controlling erosion during and after construction.
32. Drainage shall not be concentrated and diverted onto adjacent properties. Drainage from developed areas shall be dispersed across the project site.
33. The improvement plans shall show all existing and proposed sanitary sewer facilities.
34. A sewer main extension may be required and if required shall be completed prior to occupancy of the residence. An engineered plan for the sewer main extension shall be submitted with the application for a building permit. The sewer main extension shall meet all the requirements and standards of the San Rafael Sanitation District. The plans shall be reviewed and approved by the San Rafael Sanitation District.
35. All sewer related work shall be performed in accordance with the San Rafael Sanitation District (SRSD) Standards. If a new/separate sewer lateral is proposed, Civil/Utility Plans prepared by a registered civil engineer will be required prior issuance of the building permit.
36. If the existing sewer lateral(s) will be used for new/renovated facilities, the existing laterals shall be televised and inspected, and a copy of the video submitted to SRSD with the building permit application.
37. Prior to SRSD plan approval, sewer connection fees shall be imposed for all additional drainage fixtures and living units.
38. An encroachment permit shall be required for any work in the public right-of-way.
39. The improvement plans shall show all existing and proposed utilities.
40. Prior to issuance of a building permit a letter shall be submitted from the Marin Municipal Water District stating that adequate water pressure is available to serve this residence.

41. Prior to issuance of a building permit a copy of the access easement across the adjacent property shall be submitted.
42. The existing driveway shall be surfaced with a 2-inch overlay of asphalt concrete throughout the project frontage.

Community Development Department, Planning Division

43. This Environmental and Design Review Permit approves Phases 1, 2 and 3 of the Aldersly Development Plan, including the demolition of existing buildings and the construction of new buildings and landscaping, parking lot, and other improvements on the 2.9-acre Aldersly campus at 326 Mission Avenue in accordance with the Planned Development (PD) District approval ZC20-001) and Use Permit approval UP20-022, and subject to Mitigation Measures contained in the Final EIR and MMRP adopted for the project.
44. Plans and Representations Become Conditions. All information and representations, whether oral or written, including the building techniques, materials, elevations and appearance of the project, as presented for approval on plans, dated May 16, 2022 and on file with the Community Development Department, Planning Division, shall be the same as required for the issuance of a building permit, except as modified by these conditions of approval.
45. Minor Modifications. Substantially consistent and minor modifications to building exteriors and locations, fence styles and locations, signage, and significant landscape features may be approved in writing by the Community Development Director or designee, based on the determination that the proposed modification is consistent with other building and design elements of the approved architectural control permit and will not have an adverse impact on the character and aesthetics of the site. The Director may refer any request for revisions to the plans to the Planning Commission. Further environmental review and analysis may be required if such changes necessitate further review and analysis pursuant to the California Environmental Quality Act.
46. Permit Validity. This Permit shall become effective on ____, **2022** and shall be valid for a period of two (2) years from the date of final approval, or ____, **2024**, and shall become null and void if a building permit is not issued or a time extension granted by ____, **2024**. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
47. Subject to All Applicable Laws and Regulations. The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building Division, Public Works Department and other affected City divisions and departments.
48. Building Permit Required. The applicant shall obtain a building permit prior to any tenant improvement to meet the requirements per the California Building Code (CBC).
49. 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 prior to issuance of a building permit.
50. Prior to issuance of a building permit, the applicant is to comply with conditions of the Marin Municipal Water District for the landscaping improvements and other water conservation measures as outlined in letter regarding Water Availability, dated December 10, 2020.
51. Conditions Shall be Printed on Plans. The conditions of this Permit shall be printed on the second sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions. Additional sheets may also be used if the second sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

52. Construction Hours: Consistent with the City of San Rafael Municipal Code Section 8.13.050.A, construction hours shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 9:00 a.m. to 6:00 p.m. on Saturdays. Construction shall not be permitted on Sundays or City-observed holidays. Construction activities shall include delivery of materials, hauling materials off-site; startup of construction equipment engines, arrival of construction workers, paying of radios and other noises caused by equipment and/or construction workers arriving at, or working on, the site.
53. Landscaping. Prior to issuance of a building permit, the applicant shall receive approval from the Marin Municipal Water District for proposed landscaping. Landscaping and irrigation must meet the Marin Municipal Water District's (MMWD) water conservation rules and regulations. All existing landscaping damaged during construction shall be replaced. All landscaping shall be maintained in a healthy and thriving condition, free of weeds and debris. Any dying or dead landscaping shall be replaced in a timely fashion. No part of the existing landscaping shall be removed, unless their removal has been reviewed and approved by the Planning Division
54. Exterior Lighting. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property. The project shall be subject to a 90-day post installation lighting inspection to evaluate the need for adjustment and assure compliance with SRMC Section 14.16.227.
55. Fees. Prior to Issuance of Building Permits, the applicant shall pay all outstanding Planning Division application processing fees, including a \$10,000 fee deposit for mitigation monitoring.
56. Except as conditioned herein, building techniques, materials, elevations, landscaping and appearance of this project, as presented for approval, shall be the same as required for the issuance of a building permit. Any future additions, expansions, remodeling, etc. shall be subject to the review and approval of the Planning Division.
57. This Environmental and Design Review Permit shall be subject to the adopted PD zoning regulations (ZC20-001).
58. City review and approval of a Sign Permit shall be required for any new entry signage, consistent with the Sign Ordinance regulations.
59. 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 as indicated on project plans.
60. Any materials containing asbestos, lead-based paints or other potentially hazardous building materials shall be removed in compliance with all applicable federal, state and local regulations and the requirements of any agency having jurisdiction. Before removal of any materials suspected to contain asbestos, the BAAQMD's Enforcement Division shall be notified to determine proper handling procedures and permit requirements.
61. Prior to the issuance of a building permit, the applicant shall submit an application for a Lot Line Adjustment (LLA) to merge the two lots that comprise the Aldersly Planned Development District area. Written evidence that the LLA or other instrument has been recorded with the Marin County Clerk shall be submitted to the San Rafael Community Development Department prior to issuance of a building permit for Mission Avenue Independent Living building.
62. Plans submitted for a building permit shall include details regarding the location, distribution and planting of on-site bioretention areas, consistent with revised Sheets C2.0-R and L6.1-R of plans submitted for Design Review dated November 10, 2021.
63. Prior to issuance of building permit the applicant shall pay an in-lieu Affordable Housing Fee in accordance with SRMC Section 14.16.030. The applicant shall be responsible for complying with the affordable housing requirement which establishes that 10% of the 14 new units shall be available to low income residents or payment of in lieu fee as established by City Council resolution (Resolution 11942 as amended) equal to the number of required low income units (1.4 units) multiplied by the in-lieu fee in effect at the time of building permit issuance.
64. Prior to the issuance of a building permit, the applicant shall submit a design level noise study for review and approval by the Community Development Department. The noise study shall identify the required noise control measures (window and door sound ratings) that will reduce interior

noise levels to the City and State requirement of Ldn 40 in bedrooms and Ldn 45 in other rooms. The study shall also identify locations where windows must remain in the closed position to meet the required interior sound level. If the Mechanical Engineer determines that these rooms require outdoor air, then natural ventilation via open windows should not be relied upon and an alternate means of supplying outdoor air should be provided (e.g. mechanical ventilation). The alternate means for supplying outdoor air must be reviewed by the Acoustical Consultant to confirm that it does not compromise the noise reduction provided by the exterior window and wall assembly.

65. Prior to issuance of a building permit, the final landscaping and irrigation plans shall be submitted to the Planning Division for review and approval.
66. All landscaping shall be installed prior to the occupancy of the new buildings during each phase of development. The City may agree to accept a bond for a portion of landscaping improvements not completed. In the event that a bond is posted for a portion of the site landscaping, it shall cover the amount estimated for completing the landscaping. All areas proposed for landscaping must be covered with bark or a substitute material approved by the Community Development Department prior to occupancy.
67. All landscaping shall be maintained in a healthy and thriving condition, free of weeds and debris. Prior to final occupancy, the applicants shall submit a two-year maintenance contract for landscaping or post a two-year maintenance bond.
68. The landscaping plan shall be reviewed and approved by the Marin Municipal Water District prior to issuance of building permits.

Department of Public Works Conditions

69. Prior to issuance of a building permit, the applicant shall pay a traffic mitigation fee for 1 net new AM trip and 2 net new PM trips for a total of 3 peak-hour trips at the current fee of \$4,246/trip for the amount of \$12,738.
70. All improvements on Mission Avenue, including storm drain, grading and utilities to support all 3 phases of work shall be completed as part of Phase 1.
71. All backflow preventers, fire department connections (FDC), and other above ground utility structures shall be placed on private property.
72. A hydrology study shall be submitted prior to issuance of a building permit. The study shall include hydraulic calculations for the 10-year storm frequency for pre- and post-construction conditions to verify no increase in runoff due to the proposed development. Engineering solutions to mitigate any increase in runoff shall be provided.
73. The following frontage improvements along Mission Avenue shall be required:
 - a. Pavement restoration per a paving plan reviewed and approved by the DPW prior to issuance of building permit. All pavement restoration shall consist of minimum 2-inch-thick asphalt grind and overlay.
Please note, paving shall be kept in good repair at all times during site improvements and construction to the satisfaction of the DPW. Interim repaving during construction may be requested by the DPW.
 - b. Replace the sidewalk along the property frontage on Mission Ave. extending to Union Street.
 - c. Construct a new ADA compliant curb ramp at the northwest corner of the Mission Ave. and Union St. intersection, including a new concrete curb return and truncated dome warning stripes. This is the terminus of the new sidewalk requested above. Upgrade/modify the three remaining curb ramps at the Mission Ave. and Union St. intersection to be ADA compliant.
 - d. The four (4) crosswalks at the Mission Ave. and Union St. intersection shall be restriped.
 - e. The existing curb ramp on Mission Ave. frontage, across from Mary St., shall be replaced/upgraded to be ADA compliant.
74. A construction management plan shall be provided for review and approval by the City prior to issuance of building permit or grading permit. The plan shall be consistent with the Preliminary

Construction Staging & Management Plan, dated 3/22/22, and include the following:

- a. All materials and equipment shall be staged on-site, unless otherwise approved.
 - b. Traffic control plan to address on-site and off-site construction traffic.
 - c. Proposed construction phasing and approximate timeline.
 - d. All public streets and sidewalks that are impacted by the grading and construction operation for the project shall be kept clean and free of debris at all times.
75. This project includes more than 5,000 square feet of total impervious area replacement and creation and therefore is considered a regulated project. The project also proposes to use non-LID facilities and will need to show equivalent effectiveness to bioretention areas in accordance with Bay Area Stormwater Management Agencies Association (BASMAA) requirements. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) and the BASMAA requirements:
- a. Stormwater Control Plan.
 - i. A written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirements. (Needed to obtain a grading or building permit.)
 - b. Stormwater Facilities Operations and Maintenance (O&M) plan.
 - i. A written document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. (Provide prior to occupancy)
 - c. Operations and Maintenance Agreement.
 - i. A formal agreement between the property owner and the city that shall be recorded with the property deed. (Provide prior to occupancy)
76. A grading permit shall be required from Department of Public Works (DPW) prior to start of construction and shall include phase-specific grading, drainage, and erosion control plans.
77. Prior to commencing work within the public right-of-way (ROW), the applicant shall obtain an encroachment permit from DPW.
78. A construction vehicle impact fee shall be required at the time of building permit issuance, which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt.

**MITIGATION MEASURES FROM CERTIFIED FINAL EIR
AND ADOPTED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

79. (Mitigation Measure AQ-1): *Best Management Practices*. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. Additional measures are identified to reduce construction equipment exhaust emissions. The contractor shall implement the following BMPs:
1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day
 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 5. 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.
 6. Idling times shall be minimized either by shutting equipment off when not in use or

reducing the maximum idling time to 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 construction workers at all access points.

7. 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.
8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

80. (Mitigation Measure AQ-2) *Selection of equipment during construction to minimize emissions.* The project sponsor shall achieve a fleet-wide average reduction in DPM exhaust emissions from the onsite, off-road construction equipment by 65-percent or greater in order to stay below BAAQMD thresholds. One feasible way to achieve this reduction would include the following:

1. All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines. Where Tier 4 equipment is not available, exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement.
2. All aerial lifts shall be compressed natural gas (CNG) powered.

Alternatively, the applicant can develop a different plan demonstrating that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 65-percent reduction in diesel particulate matter (DPM) exhaust emissions or greater

81. (Mitigation Measure BIO-1) *Avoidance of Nesting Birds.* Nests of native birds in active use shall be avoided in compliance with State and federal regulations. Vegetation clearing and construction shall be initiated outside the bird nesting season (February 1 through August 31) or preconstruction surveys shall be conducted by a qualified biologist within a minimum of 300 feet from the project site where access is feasible and no more than seven days prior to any disturbance. If active nests are encountered (i.e., one containing eggs or young), a work-exclusion buffer shall be implemented around the nest commensurate with the nest location and species. In some cases, buffers may be as small as 25 feet for hidden nests (e.g., in tree or building cavities) and/or for urban adapted species; buffers may also extend up to 300 feet for raptors or more sensitive species. No construction activity shall occur within the established buffer until it is determined by a qualified biologist that the young have fledged (that is, left the nest) or the nest has become otherwise inactive (e.g. due to predation). At that time the buffer may be removed and work within the buffer resume.
82. (Mitigation Measure BIO-2) *Roosting Bat Habitat Assessment and Surveys:* Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. A qualified bat biologist shall have: 1) at least two years of experience conducting bat surveys that resulted in detections for relevant species, such as pallid bat, with verified project names, dates, and references, and 2) experience with relevant equipment used to conduct bat surveys. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, suitable canopy for foliage roosting species). If suitable habitat trees are found, or bats are observed, mitigation measure BIO-3 shall be implemented
83. (Mitigation Measure BIO-3) *Roosting Bat Tree Protections:* If the qualified biologist identifies potential bat habitat trees, then tree trimming and tree removal shall not proceed unless the following occurs: 1) a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establishes absence of roosting bats, or 2) tree trimming and tree removal occurs only during seasonal periods of bat activity, from approximately March 1

through April 15 and September 1 through October 15, and tree removal occurs using the two-step removal process. Two-step tree removal shall be conducted over two consecutive days. The first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided. The second day the entire tree shall be removed.

84. (Mitigation Measure CUL-1) *Interpretation and Commemoration of Historic Resources*. Prior to issuance of demolition permit(s), the project sponsor shall undertake the following measures to document and provide interpretation, commemoration, and salvage of the historic resources to be demolished, as outlined below:

CUL-1a: Documentation. Prior to issuance of demolition permits, the project sponsor shall undertake Historic American Building Survey (HABS)/Historic American Landscape Survey (HALS)-style documentation of the property. The documentation shall be funded by the project sponsor and undertaken by a qualified professional who meets the standards for history, architectural history, or architecture (as appropriate) set forth in the Secretary of the Interior's Professional Qualification Standards (Code of Federal Regulations title 36, part 61). The documentation package created shall consist of the items listed below:

- CUL-1a-1: HABS-style Photographs
- CUL-1a-2: HABS/HALS-style Historical Report
- CUL-1a-3: HALS-style Site Plan
- CUL-1a-4: Video Documentation

The documentation materials shall be offered to state, regional, and local repositories, including but not limited to, the Northwest Information Center (NWIC)-California Historical Resource Information System, San Rafael Public Library, the Marin County Free Library's Anne T. Kent California Room, and the Marin History Museum. Materials will either be provided in digital or hard copy formats depending on the capacity and preference of the repository.

CUL-1a-1: HABS-style Photographs. Digital photographs will be taken of the contributing buildings and landscape elements and the overall character and setting of the historic resource. All digital photography shall be conducted according to current National Park Service standards as specified in the National Register Photo Policy Factsheet (updated May 2013). The photography shall be undertaken by a qualified professional with demonstrated experience in documentation photography. Large format negatives are not required. The scope of the digital photographs shall be reviewed and approved by the Planning Division's staff for concurrence.

Photograph views for the data set shall include contextual views of the site and each contributing landscape element and building; elevations of each façade of each building; and detail views of character-defining features. All photographs shall be referenced on a photographic key map or site plan. The photographic key shall show the photograph number with an arrow to indicate the direction of the view.

CUL-1a-2: HABS/HALS-style Historical Report. A written historical narrative and report will be produced that meets the HABS/HALS Historical Report Guidelines. This HABS/HALS-style Historical Report may be based on the documentation provided in the 2017 Historic Resource Evaluation for the site and will include historic photographs and drawings, if available. The written history shall follow the standard outline format that begins with a statement of significance for the historic district, describes the architectural and historical context of the district, and includes descriptions of each contributing building and landscape feature.

CUL-1a-3: HALS-style Site Plan. A HALS-style site plan shall be prepared that depicts the existing sizes, scale, dimensions, and relative locations of the contributing landscape elements and buildings related to the historic resource. Particular attention will be paid to the arrangement and plantings of landscape features that are contributing resources to the historic resource. Documentation of all plantings is not required, but depiction of the locations and types of mature trees, and designed hardscape and landscape features shall be included.

CUL-1a-4: Video Recordation. Video recordation shall be undertaken prior to the issuance of

demolition permits. The project sponsor shall undertake a video documenting the historic resource and its setting. The documentation shall be conducted by a professional videographer, preferably one with experience recording architectural resources. The documentation shall be narrated by a qualified professional who meets the Secretary of the Interior's Professional Qualification Standards for history, architectural history, or architecture (as appropriate). The documentation shall include as much information as possible—using visuals in combination with narration—about the materials, construction methods, current condition, historic use, historic context, and historic significance of the historic resource. The video documentation shall be reviewed and approved by the Planning Division's staff prior to issuance of demolition permits.

CUL-1b: Interpretation. The project sponsor shall provide a permanent display (or multiple displays) of interpretive materials concerning the history of Aldersly in the Northern California Danish-American community and the architectural features of the Aldersly Retirement Community campus as designed in the 1961-1968 master plan by master architect Rex Whitaker Allen. Interpretation of the site's history shall be supervised by an architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards. The high-quality interpretive display(s) shall be installed within the project site boundaries, made of durable, all-weather materials, and positioned to allow for high public visibility and interactivity. In addition to narrative text, the interpretative display(s) may include, but are not limited to, a display of photographs, news articles, memorabilia, drawings, and/or video. A proposal describing the general parameters of the interpretive program shall be approved by the Planning Division's staff prior to issuance of building permits. The content, media, and other characteristics of the interpretive display shall be approved by the Planning Division's staff prior to issuance of a Temporary Certificate of Occupancy.

CUL-1c: Salvage. Prior to any demolition or construction activities that would remove character-defining features of a resource that is a contributor to the historic resource on the project site, the project sponsor shall consult with a qualified architectural historian or historian who meets the Secretary of the Interior's Professional Qualification Standards as to whether any such features may be salvaged, in whole or in part, during demolition/alteration. The project sponsor shall submit a list of materials that will be salvaged and reused either on the site or within the interpretive program to the Planning Division for review prior to the beginning of demolition on the site. The project sponsor shall make a good faith effort to salvage materials of historical interest to be utilized as part of the interpretative program. No materials shall be salvaged or removed until HABS/HALS-style recordation and documentation are completed.

85. (Mitigation Measure CUL-2) Conduct Cultural Resources and Tribal Cultural Resources Sensitivity and Awareness Training Program Prior to Ground-Disturbing Activities. Prior to issuance of a building permit, grading permit, or demolition permit involving any potential ground disturbing activity, all construction contractor(s) responsible for overseeing and operating ground-disturbing mechanical equipment (e.g., onsite construction managers and backhoe operators) shall be required to participate in a cultural resources and tribal cultural resources sensitivity and awareness training program (Worker Environmental Awareness Program [WEAP]) for all personnel involved in Project construction, including field consultants and construction workers. The WEAP shall be developed by an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in archaeology, and by culturally affiliated Native American tribes.

The WEAP training shall be conducted by an archaeologist that meets the Secretary of the Interior's Professional Qualifications Standards in archaeology. A representative from the Federated Indians of Graton Rancheria (FIGR) shall be invited to participate in the training.

The WEAP training shall be conducted before any Project-related construction activities begin at the Project site. The WEAP will include relevant information regarding sensitive cultural resources and tribal cultural resources, including applicable regulations, protocols for avoidance, and consequences of violating State laws and regulations. The WEAP will also describe appropriate avoidance and impact minimization measures for cultural resources and tribal cultural resources that could be located at the Project site and will outline what to do and who to

contact if any potential cultural resources or tribal cultural resources are encountered. The WEAP will emphasize the requirement for confidentiality and culturally appropriate treatment of any discovery of significance to Native Americans and will discuss appropriate behaviors and responsive actions, consistent with Native American tribal values.

The project sponsor shall maintain a record of all construction personnel that have received this training and provide the record to the City. These records shall be submitted to the City prior to issuance of a building permit involving any ground disturbing activity and shall be maintained by the applicant throughout the duration of the construction period. A final record shall be submitted to the City prior to issuance of a certificate of occupancy.

86. (Mitigation Measure CUL-3) *Protect Archaeological Resources Identified during Construction.* The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist and FIGR Tribal Monitor can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).
87. (Mitigation Measure CUL-4) *Protect Human Remains Identified During Construction.* In accordance with the California Health and Safety Code, if the find includes human remains, or remains that are potentially human, they shall ensure reasonable protection measures are taken to protect the discovery from disturbance (Assembly Bill [AB] 2641). The archaeologist shall notify the Marin County Coroner (per § 7050.5 of the Health and Safety Code) and the provisions of § 7050.5 of the California Health and Safety Code, § 5097.98 of the California PRC, and AB 2641 shall be implemented. If the coroner determines the remains are Native American and not the result of a crime scene, the coroner will notify the NAHC, which then will designate a Native American Most Likely Descendant (MLD) for the Project (§ 5097.98 of the PRC). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (§ 5097.94 of the PRC). If no agreement is reached, the landowner shall rebury the remains where they will not be further disturbed (§ 5097.98 of the PRC). This shall also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a reinternment document with the county in which the property is located (AB 2641). Work may not resume within the no-work radius until the lead agencies, through consultation as appropriate, determine that the treatment measures have been completed to their satisfaction.
88. (Mitigation Measure TCR-1) *Survey of Site by Trained Human Remains Detection Dogs.* Prior to the issuance of a grading or building permit, the project sponsor shall provide written evidence to the City's Community Development Department that a qualified consultant has been retained to conduct a survey of the site using trained human remains detection dogs. The survey shall be performed after the demolition of structures but prior to when trenching, grading, or earthwork on the site commences. If the survey results in the identification of an area potentially containing human remains, the area should be avoided. If avoidance is not feasible, then the City shall require that a professional archaeologist be retained to conduct subsurface testing, in the presence of a tribal representative from FIGR, to verify the presence or absence of remains. If human remains are confirmed, then the procedures in the PRC and Mitigation Measure CUL-3 shall be followed.
89. (Mitigation Measure TCR-2) *Archaeological and Native American Monitoring and the Discovery of Cultural Materials and/or Human Remains.* Prior to issuance of a grading permit or building permit, the project sponsor shall retain a Secretary of the Interior-qualified archaeologist, with input from the Federated Indians of Graton Rancheria (FIGR), to prepare a Cultural Resources Monitoring Plan. Monitoring shall be required during initial ground-disturbing activities and may

be extended should the area be determined to require monitoring of deeper sediments, according to a schedule outlined in the Cultural Resources Monitoring Plan. The plan shall include (but not be limited to) the following components:

- Person(s) responsible for conducting monitoring activities, including an archaeological monitor and an appropriate number of FIGR Tribal monitors (number and kind of appropriate monitors to be determined in consultation with FIGR);
- Person(s) responsible for overseeing and directing the monitors;
- How the monitoring shall be conducted and the required format and content of monitoring reports, including schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports;
- Protocol for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, appropriate documentation, repatriation); and
- Methods to ensure security of cultural resources sites, including protective fencing, security, and protocol for notifying local authorities (i.e. Sheriff, Police) should site looting or other resource damaging or illegal activities occur during construction.

During the course of the monitoring, the archaeologist, in consultation with FIGR Tribal monitor, may adjust the frequency—from continuous to intermittent—based on the conditions and professional judgment regarding the potential to impact cultural and tribal cultural resources. If significant tribal cultural resources are identified onsite, all work shall stop immediately within 100 feet of the resource(s).

90. (Mitigation Measure GE0-1) Prior to a grading or building permit submittal, the project sponsor shall prepare a final geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs. Recommended seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Geotechnical Investigation prepared by Rockridge Geotechnical, August 31, 2020.
91. (Mitigation Measure GE0-2) Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field. If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

"The subsurface of the construction site may contain fossils. If fossils are encountered during

project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5."

92. (Mitigation Measure NOI-1) *Construction Noise*. Prior to the issuance of a grading permit or building permit, the project sponsor shall submit a Construction Noise Management Plan (CNMP) prepared by a qualified acoustical consultant. The CNMP shall identify noise attenuation measures to further reduce potential impacts related to construction noise. Noise attenuation measures include, but are not limited to, the following:

- a. Installation of a temporary noise barrier along the east and west property lines of the site. The barrier can be constructed with plywood or another appropriate material with cracks or no gaps. The purpose of the barrier is to provide a noticeable reduction of the noise and meet 90 dBA at residential receivers on neighboring properties along the common east and west property lines, where reasonably feasible. The height of the noise barrier, which may be up to 12 feet at certain locations, shall take into account the height of the construction noise sources and site grading and shall be specified in the Construction Noise Management Plan.
- b. All construction equipment shall be equipped with mufflers and sound control devices (e.g., intake silencers and noise shrouds) that are in good condition and appropriate for the equipment.
- c. Maintain all construction equipment to minimize noise emissions.
- d. Stationary equipment shall be located on the site to maintain the greatest possible distance to the existing residences, where feasible.
- e. Unnecessary idling of internal combustion engines shall be strictly prohibited.
- f. Provide advance notification to surrounding land uses disclosing the construction schedule, including the various types of activities that would be occurring throughout the duration of the construction period
- g. The construction contractor shall provide the name and telephone number of an on-site construction liaison. If construction noise is found to be intrusive to the community (complaints are received), the construction liaison shall investigate the source of the noise and require that reasonable measures be implemented to correct the problem.
- h. Schedule high noise-producing activities during times when they would be least likely to interfere with the noise sensitive activities of the neighboring land use, when possible.
- i. Use noise control blankets on temporary fencing that are used to separate construction areas from occupied on-site areas.
- j. Temporarily relocate residents of on-site dwelling units that are very close to the construction activities.
- k. Consider upgrading windows to reduce construction noise at on-site dwelling units closest to the construction activities.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 5th day of December 2022 by the following vote, to wit:

AYES: Councilmembers:
NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk

RIPLEY H. HUNTER JR.

[REDACTED]
SAN RAFAEL CA. 94901

11/09/22

RECEIVED
NOV 15 2022

CITY SAN RAFAEL, PLANNING DIVISION CDD
1400 5TH AVE. 3RD FL.
SAN RAFAEL, CA. 94901

REF: FINAL EIR ALDERSLY RET. COM. CAMPUS

SIRS, MADAM:

I WRITE IN FAVOR OF THE BUILDING PLAN FOR ALDERSLY RETIREMENT COMMUNITY. AS A LONG TERM MARIN COUNTY RESIDENT AND VOTER, A FORMER PRACTICING PHYSICIAN SAN RAFAEL, AND CURRENT RESIDENT OF ALDERSLY, I BELIEVE THIS PROJECT/PLAN WILL ENRICH OUR COMMUNITY AND ALLOW ALL GENERATIONS, ALL SMALL FAMILY BUSINESSES AND ALL THE SCHOOLS AND CHURCHES GROW AND LIVE TOGETHER IN HARMONY AND PEACE.

RETIREMENT COMMUNITIES, NON PROFITS, ARE BOTH BUSINESSES, COMMUNITIES, AND COMMUNITY CONTRIBUTORS. ECONOMICALLY THEY MUST GROW IN ORDER TO SURVIVE. OTHERS IN OUR COMMUNITY DO; SO LET IT BE WITH ALDERSLY.

APPROVE THE ALDERSLY BUILDING AND GROWTH PLAN NOW. HELP TO MAKE SAN RAFAEL, MARIN COUNTY, CALIFORNIA THE WONDERFUL COMMUNITY IT HAS BEEN, IS NOW, AND WILL ALWAYS IN THE FUTURE BE.

THANK YOU. RESPECTFULLY SUBMITTED,

RIPLEY H. HUNTER JR.

Ripley Hunter

From: [Steven Stein](#)
To: [Planning Public Comment](#)
Subject: Aldersly project
Date: Tuesday, November 15, 2022 3:57:18 PM

Planning Commission
City of San Rafael
1400 Fifth Ave., Rm 209
San Rafael, CA. 94901

Dear Commissioners:

I urge you to forward the Aldersly project to the City Council with your recommendation that the EIR be certified and that necessary zoning changes and approvals be authorized.

For the past 100 years, Aldersly has been an asset to the county -- and especially to its elder population. Now Aldersly needs to replace some of its older units with housing that is larger and more modern; and it needs a modest expansion. In order to remain viable, Aldersly must provide present and future residents with accommodations that are up-to-date, safe, and comfortable.

Equally, the senior population of San Rafael and Marin County needs communities like Aldersly. While some older people have carefully planned to 'age in place', for others this is not an optimal solution. For that latter group, Aldersly -- along with a very few other facilities in Marin County - can provide an alternative.

Adequate independent group living remains remarkably scarce in this county. The proposed project that's before you tonight will fill at least some of the gap between what exists and what's needed.

Sincerely,

Steve Stein

A black rectangular redaction box covering the signature area.

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING BEFORE THE SAN RAFAEL CITY COUNCIL

You are invited to attend the City Council hearing on the following project:

DATE/TIME: **Monday, December 5, 2022 at 7:00 P.M.**

LOCATION: City Council Chambers, City Hall, 1400 Fifth Avenue, San Rafael, CA 94901

VIRTUAL PARTICIPATION

COVID-19 ADVISORY NOTICE: Consistent with State of California and County of Marin health orders, the San Rafael City Council has determined that the following hearing will be physically open to the public, but that the public may participate either by attending the meeting in person or by teleconference by visiting <https://www.cityofsanrafael.org/departments/public-meetings/> for the call-in phone number and meeting ID listed on the agenda, or using Zoom app to connect to this meeting ID.

PROJECT:

326 and 308 Mission Avenue (Aldersly Retirement Community) – Consideration of an ordinance approving a zoning amendment from Planned Development District (PD1775) to a revised Planned Development District (PD), and approval of a Master Use Permit, and an Environmental and Design Review Permit, as recommended by the Planning Commission for the phased development of new buildings and other improvements, and demolition of existing buildings on the Aldersly Retirement Community property, including 14 net new Independent Living units. APN: 014-054-31 and -32; Peter Schakow, Owner; Applicant: Peter Lin, Greenbrier Development; File No(s): ZC20-001, UP20-022, ED 20-051 & IS20-003.

ENVIRONMENTAL REVIEW:

State law (California Environmental Quality Act or CEQA) requires that this project be reviewed to determine if a study of potential environmental effects is required. An Environmental Impact Report (EIR) has been prepared pursuant to the requirements of CEQA (Pub. Res. Code §21000 et seq.) and the CEQA Guidelines (14 Cal. Code Regs. §§15000 to 15387). The City Council will consider certification of the Final EIR prepared for the project at this meeting.

WHAT WILL HAPPEN:

Staff will provide a presentation, members of the public can provide comments/questions, and the City Council will consider all public testimony, deliberate, and determine how to proceed with the recommendation provided by staff and the Planning Commission on the project applications.

IF YOU CANNOT ATTEND:

You may submit comments regarding the proposed item by 4:00 p.m. the day of the hearing to Lindsay Lara, City Clerk, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901, or by email to city.clerk@cityofsanrafael.org. You can also hand deliver a letter prior to the public hearing. The City Clerk's office will forward your comments to the City Council and publish correspondence received to the agenda online. Comments received after 4:00 p.m. will be forwarded to the City Council and posted online the following day.

FOR MORE INFORMATION:

Visit the project webpage: <https://www.cityofsanrafael.org/aldersly/> or contact **Jayni Allsep**, Project Planner at **(415) 706-0443** or jayni.allsep@cityofsanrafael.org. You can also come to the Planning Division office, located in City Hall, 1400 Fifth Avenue, to look at the electronic file for the proposed project. The office is open from 8:30 a.m. to 4:00 p.m. Monday through Thursday and 8:30 a.m. to 12:30 p.m. on Friday. You can also view the staff report after 4:00 p.m. on the Friday before the meeting at <https://www.cityofsanrafael.org/city-council-meetings/>.

/s/ Lindsay Lara
Lindsay Lara
City Clerk
City of San Rafael

To be published in the Marin IJ on: [Saturday, November 19, 2022]



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 3.c

Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: April Miller,
Director of Public Works**

City Manager Approval: _____

File No.: 08.02.277

TOPIC: ROTARY MANOR CULVERT REPLACEMENT

SUBJECT: RESOLUTION ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM FOR THE ROTARY MANOR CULVERT REPLACEMENT PROJECT; AUTHORIZATION TO STAFF TO PROCEED WITH FINAL DESIGN AND PROCUREMENT OF REGULATORY ENVIRONMENTAL PERMITS

RECOMMENDATION:

Adopt the Resolution Adopting the Initial Study/Mitigated Negative Declaration (IS/MND) and Associated Mitigation Monitoring and Reporting Program for the Rotary Manor Culvert Replacement Project; Authorization to Staff to Proceed with Final Design and Procurement of Regulatory Environmental Permits

BACKGROUND:

Rotary Manor, located at 1821 Fifth Avenue, is a senior community housing facility. A reinforced concrete box culvert exists underneath this property and conveys flows along a historic waterway representing the upper reaches of present-day San Rafael Creek. This culvert transitions from a reinforced concrete box to a corrugated metal pipe (CMP) and outlets into an open creek all within the Rotary Manor property.

In January 2016, Public Works was notified of a sinkhole on the Rotary Manor property. Upon inspection, it was identified that the CMP portion of the culvert is in need of replacement. To begin design of this project, City staff solicited proposals from multiple firms with strong backgrounds in roadway, drainage, and environmental design. On December 16, 2019, the professional services agreement for the design of this culvert replacement was awarded to Coastland Civil Engineering, Inc. The proposed design will include full replacement of the culvert as well as restoration of landscape and decorative features of the Rotary Manor gardens.

ANALYSIS:

As part of the design of the culvert replacement, an Initial Study/Mitigated Negative Declaration was prepared per California Environmental Quality Act (CEQA) guidelines. City staff initiated a public review period for this document from Oct. 26 – Nov. 30, 2022. Notification of this public review period was posted in the Marin IJ and mailed to all occupants and owners within a 300 ft radius of the project site.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

1. Resolution re Adoption of the Mitigated Negative Declaration

An Initial Study was prepared to determine the potential environmental impacts the proposed project could have on biological resources, cultural resources, tribal cultural resources, and noise, and to make mandatory findings of significance. Findings suggest the project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures as required in the included Mitigation Monitoring and Reporting Program (MMRP).

A Notice of Public Hearing and Intent to Adopt the Initial Study/Mitigated Negative Declaration was published in the Marin IJ on October 24, 2022 (Attachment 2) and was mailed to residents/businesses residing within 300 feet of the project site (Rotary Manor @ 1821 Fifth Ave). As required by CEQA Guidelines Section 15073, a minimum 30-day public review period was provided for the Initial Study/Mitigated Negative Declaration. A hard copy of the document was also made available at the Department of Public Works (111 Morphew St.).

The Initial Study/Mitigated Negative Declaration is on the City's website, and can be accessed for review at: <https://www.cityofsanrafael.org/rotary-manor-culvert-replacement/>. The MMRP are attached to this staff report (Attachment 3). The formal public review period closed on November 30, 2022 with the City receiving one comment letter from the State Department of Fish and Wildlife (CDFW) (Attachment 4). CDFW's comment letter recommends three different mitigation measures be added to the MMRP including (1) acquiring of 401 and 404 water quality certifications and biological surveys for (2) certain special-status plants and (3) foothill yellow-legged frogs. As part of the Initial Study, a biological survey was completed at the site to determine what biological communities existed at the project site and specifically identified the species commented on by CDFW as having an unlikely chance of being impacted by the project. Regardless, since a permit from CDFW is required before this project can be constructed, City staff will continue to work with CDFW to address these comments and any additional ones that arise as part of the permit review process.

As shown in Table 1 taken from page 14 of the document, the project could potentially have impacts on biological, tribal, and other cultural resources. Therefore, the document includes several measures to be implemented during construction to mitigate these impacts. The measures include, in part, preconstruction survey for western pond turtle, environmental awareness training provided by a qualified biologist, and procedures to be followed if cultural resources are encountered.

Table 1: Potentially Significant Impacts Requiring Mitigation Measures

<input type="checkbox"/>	Aesthetics	<input type="checkbox"/>	Greenhouse Gas	<input type="checkbox"/>	Public Services
<input type="checkbox"/>	Agricultural Resources	<input type="checkbox"/>	Hazards/Hazardous	<input type="checkbox"/>	Recreation
<input type="checkbox"/>	Air Quality	<input type="checkbox"/>	Hydrology/Water	<input type="checkbox"/>	Transportation
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Land Use/Planning	<input checked="" type="checkbox"/>	Tribal Cultural Resources
<input checked="" type="checkbox"/>	Cultural Resources	<input type="checkbox"/>	Mineral Resources	<input type="checkbox"/>	Utilities and Service Systems
<input type="checkbox"/>	Energy	<input checked="" type="checkbox"/>	Noise	<input type="checkbox"/>	Wildfire
<input type="checkbox"/>	Geology/Soils	<input type="checkbox"/>	Population/Housing	<input checked="" type="checkbox"/>	Mandatory Findings of Significance

The recommended resolution would adopt the MMRP in accordance with CEQA Guidelines and clear this project for construction from the environmental clearance standpoint except for necessary permits required from environmental regulatory agencies. It is anticipated that permits will be required from the following agencies: California Fish and Wildlife (CDFW); U.S. Army Corps of Engineers; San Francisco Regional Water Quality Control Board (SFRWQCB); and Marin County.

2. Motion Directing Staff to Proceed with Final Design and Environmental Permitting

With City Council approval of the recommended resolution, staff recommends that the City Council authorize staff to proceed with final design work and procurement of environmental regulatory permits.

FISCAL IMPACT: No immediate fiscal impact is associated with the approval and adoption of the Mitigated Negative Declaration.

OPTIONS:

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

1. Adopt the resolution as presented and move to authorize staff to proceed with final design work and procurement of environmental regulatory permits.
2. Adopt the resolution with modifications.
3. Decline to approve the resolution, which will result in the project being unable to move forward.
4. Defer action and request staff to provide further information or modifications at a future Council meeting.

RECOMMENDED ACTION:

Adopt the Resolution Adopting the Initial Study/Mitigated Negative Declaration (IS/MND) and Associated Mitigation Monitoring and Reporting Program for the Rotary Manor Culvert Replacement Project; Authorization to Staff to Proceed with Final Design and Procurement of Regulatory Environmental Permits.

ATTACHMENT:

1. Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program

2. Public Hearing Notices
3. Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
4. Comment letter from State Department of Fish and Wildlife

RESOLUTION NO. _____

RESOLUTION ADOPTING THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR THE ROTARY MANOR CULVERT REPLACEMENT PROJECT; AUTHORIZATION TO STAFF TO PROCEED WITH FINAL DESIGN AND PROCUREMENT OF REGULATORY ENVIRONMENTAL PERMITS; CITY PROJECT NO. 11371

WHEREAS, the City has determined it is necessary to replace the Rotary Manor Culvert and has retained consultants to design the project and prepare construction drawings, City Project No. 11371; and

WHEREAS, the construction plans are approximately 90% completed for the Project's proposed culvert replacement and, pursuant to the California Environmental Quality Act (CEQA) Guidelines, it was determined that, for purposes of CEQA, the improvements are defined as a "project" subject to environmental review; and

WHEREAS, pursuant to CEQA Guidelines Section 15063, an Initial Study was prepared to determine the potential environmental impacts of the Project; and

WHEREAS, as demonstrated in the preparation of the Initial Study, the proposed Project would result in no significant environmental impacts for which mitigation is recommended to reduce; and

WHEREAS, consistent with CEQA Guidelines Section 15070, the Initial Study supports and recommends the adoption of a Mitigated Negative Declaration; and

WHEREAS, pursuant to CEQA Guidelines Section 15073, on October 24th, 2022, the City published a Notice of Public Hearing and Intent to Adopt the Initial Study/Mitigated Negative Declaration which was made available for a 30-day public review period. One comment letter was received from the State Department of Fish and Wildlife; and

WHEREAS, on December 5th, 2022, the City Council held a duly noticed public hearing to review the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and considered all oral and written public testimony.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby adopts the Mitigated Negative Declaration and the Mitigation Monitoring

and Reporting Program for the Rotary Manor culvert replacement Project, City Project No. 11371, based on the following findings:

1. The Initial Study/Mitigated Negative Declaration has been prepared in accordance with CEQA Guidelines by the consultant. As a result of this consultation, mitigation measures required to address potential impacts have been incorporated into the Mitigated Negative Declaration.
2. As prescribed by CEQA Guidelines Section 15073, a public review period of a minimum of 30 days was observed for public comment (30-days observed commencing on October 26th, 2022 and closing on November 30th, 2022).
3. The Mitigated Negative Declaration has been presented to the City Council who has reviewed and considered the information in the Initial Study for adopting a Mitigated Negative Declaration. Further, the City Council finds that the Initial Study is adequate and complete to support the adoption of a Mitigated Negative Declaration.
4. The City Council has exercised its independent judgment in evaluating the Initial Study and has considered the comments received during the public review period and public hearing. Based on this review, the City Council has determined that a) there is no substantial evidence that the Project will have a significant impact on the environment; and b) revisions have been made to the Project or have been included in the Project as conditions of approval which reduce the potentially significant impacts related to biological resources, cultural resources, noise, and air quality for which mitigation measures are required; and c) result in either no environmental impacts or impacts that are deemed to be less-than-significant in other topic areas listed in the Initial Study Checklist.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on the 5th day of December 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

File No.: 08.02.277



SAN RAFAEL
THE CITY WITH A MISSION

NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION – CITY COUNCIL

You are invited to review and attend the City Council hearing on the following proposed project:

PROJECT: Rotary Manor Culvert Replacement Project. Located in the southeast yard of Rotary Manor at APN 010-291-71. Project calls for the replacement of an existing corrugated metal pipe culvert with a new reinforced concrete box culvert. City File No: 08.02.277.

*Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link: <https://www.cityofsanrafael.org/rotary-manor-culvert-replacement/>. A hard copy of the Initial Study is available for review at the Department of Public Works, 111 Morphew Street, San Rafael. **A 30-day public review period is being observed for review and comment on the Initial Study/Mitigated Negative Declaration, commencing on Wednesday, October 26th, 2022 and closing on Wednesday, November 30th, 2022. All written comments on the Initial Study must be submitted to the City by November 30th, 2022. The City Council will then hold a public hearing on the matter on the date listed below.***

MEETING DATE/TIME/LOCATION: Monday, December 5, 2022 at 7:00 p.m. City Council Chambers, 1400 Fifth Ave at D St, San Rafael, CA

FOR MORE INFORMATION: Visit the project webpage at <https://www.cityofsanrafael.org/rotary-manor-culvert-replacement/> or contact Raed Al-Zaher, Project Manager at (415) 482-2682 or Raed.Al-Zaher@CityofSanRafael.org. You can also come to the Public Works office, located at 111 Morphew Street to look at the environmental document. The office is open from 8 a.m. to 4 p.m. Monday to Friday. You can also view the staff report after 4:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>.

WHAT WILL HAPPEN: You can comment on the project. The City Council will consider all public testimony and decide whether to approve or deny the application.

IF YOU WANT TO COMMENT: You can send written correspondence by email to the address above, or by mail/hand delivery to the Public Works Department, City of San Rafael, 111 Morphew St, San Rafael, CA 94901.

At the above time and place, all written correspondence received will be noted and all interested parties will be heard. If you challenge in court the matter described above, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered at, or prior to, the above referenced public hearing (Government Code Section 65009 (b) (2)).

Judicial review of an administrative decision of the City Council must be filed with the Court not later than the 90th day following the date of the Council's decision. (Code of Civil Procedure Section 1094.6)

Any records relating to an Agenda Item, received by a majority or more of the board or commission less than 72 hours before the meeting, shall be available for inspection in the CDD Dept, at 1400 Fifth Ave, Third Floor, San Rafael, CA

Sign Language and interpretation and assistive listening devices may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org, or using the California Telecommunications Relay Service by dialing "711" at least 72 hours in advance. Copies of documents are available in accessible formats upon request.

Public transportation to City Hall is available through Golden Gate Transit, Line 22 or 23. Para-transit is available by calling Whistlestop Wheels at (415) 454-0964.

To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com

2070419

CITY OF SAN RAFAEL
1400 FIFTH AVENUE
CITY CLERK, ROOM 209
SAN RAFAEL, CA 94901

PROOF OF PUBLICATION (2015.5 C.C.P.)

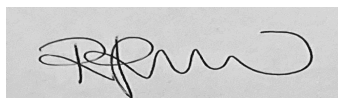
STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

10/24/2022

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 8th day of November, 2022.



Signature

PROOF OF PUBLICATION

Legal No. **0006707804**

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING AND INTENT TO ADOPT AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION CEQA Public Review Period: October 26, 2022 to November 30, 2022

You are being informed of the availability of a Draft Initial Study/Mitigated Negative Declaration for public review and invited to attend the City Council hearing on the following project:

DATE/TIME/PLACE: Monday, December 5, 2022 at 7:00 P.M.
City Hall Council Chambers, 1400 Fifth Avenue, San Rafael, CA 94901

COVID-19 ADVISORY NOTICE: Consistent with State of California and County of Marin health orders, the San Rafael City Council has determined that the following hearing will be physically open to the public, but that the public may participate either by attending the meeting in person or by teleconference by visiting <https://www.cityofsanrafael.org/departments/public-meetings/> for the call-in phone number and meeting ID listed on the agenda (or using Zoom app to connect to this meeting ID).

PROJECT: Rotary Manor Culvert Replacement Project. Located in the southeast yard of Rotary Manor at APN 010-291-71. Project calls for the replacement of an existing corroded corrugated metal pipe culvert with a new reinforced concrete box culvert. City File No: 08.02.277.

Consistent with the provisions of the California Environmental Quality Act (CEQA) Guidelines, this project is subject to environmental review and an Initial Study/Mitigated Negative Declaration has been prepared. The Initial Study and supportive appendices have been posted on the City of San Rafael website and can be accessed via the following link: <https://www.cityofsanrafael.org/rotary-mano-r-culvert-replacement/>. A hard copy of the Initial Study is available for review at the Department of Public Works, 111 Morphew Street, San Rafael. A 30-day public review period is being observed for review and comment on the Initial Study/Mitigated Negative Declaration, commencing on Wednesday, October 26th, 2022 and closing on Wednesday, November 30th, 2022. All written comments on the Initial Study must be submitted to the City by November 30th, 2022. The City Council will then hold a public hearing on the matter on the date listed above.

WHAT WILL HAPPEN:

You can comment on the project. The City Council will consider all public testimony and decide whether to approve or deny the application.

IF YOU CANNOT ATTEND:

You can send written correspondence by email to the address below, or by mail/hand delivery to the Public Works Department, City of San Rafael, 111 Morphew St, San Rafael, CA 94901.

FOR MORE INFORMATION:

Visit the project webpage at <https://www.cityofsanrafael.org/rotary-mano-r-culvert-replacement/> or contact **Raed Al-Zaher**, Project Manager at (415) 482-2682 or Raed.Al-Zaher@CityofSanRafael.org. You can also come to the Public Works office, located at 111 Morphew Street, to look at the file for the proposed project. The office is open from 8 a.m. to 4 p.m. Monday thru Friday. You can also view the staff report after 4:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>

SAN RAFAEL CITY CLERK

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK
6707804 October 24, 2022

ROTARY MANOR CULVERT REPLACEMENT PROJECT MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared pursuant to CEQA Guidelines (California Code of Regulations, Title 14), which state the following:

In order to ensure that the mitigation measures and project revisions identified in the EIR or negative declaration are implemented, the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.

The public agency may choose whether its program will monitor mitigation, report on mitigation, or both. "Reporting" generally consists of a written compliance review that is presented to the decision making body or authorized staff person. A report may be required at various stages during project implementation or upon completion of the mitigation measure. "Monitoring" is generally an ongoing or periodic process of project oversight. There is often no clear distinction between monitoring and reporting and the program best suited to ensuring compliance in any given instance will usually involve elements of both.

Table 3 below presents the potentially significant impacts and proposed mitigation measures identified in the Rotary Manor Culvert Replacement Project IS/MND, the timing of implementation of the mitigation measures (i.e., when the measure will be implemented), the City of San Rafael staff or individual responsible for ensuring implementation of each mitigation measure, and the City of San Rafael staff member or individual responsible for monitoring the mitigation measures.

Table 3: Mitigation Monitoring and Reporting Program

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
Biological Resources				
Impact IV.a: Sensitive or special-status species	Mitigation Measure BIO-1: A qualified biologist shall conduct worker environmental awareness training for personnel working on earthmoving and/or construction activities. Personnel shall be required to attend the training, which shall describe the Federal and State statutes protecting threatened, endangered, and special-status species that may be encountered on-site; minimization and conservation measures; legal protection of species; and other related issues.	Implementation Responsibility: Qualified biologist Implementation Timing: Prior to construction	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____
	Mitigation Measure BIO-2: If construction activities are initiated during the nesting season (February 1 – August 31), a nesting bird survey shall be conducted by a qualified biologist within 7 days prior to the start of construction within the project site and the immediately surrounding area. If active nests are present, exclusion buffers appropriate to the species shall be established by the qualified biologist to prevent impacts to nesting birds. Buffers shall be maintained until the biologist determines that young	Implementation Responsibility: Qualified biologist Implementation Timing: Within 7 days prior to the start of construction during nesting bird season	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	have fledged, or the nest becomes inactive.			
	<p>Mitigation Measure BIO-3: The City and their contractor shall implement the following measures to reduce or avoid impacts to western pond turtle:</p> <ul style="list-style-type: none"> A pre-construction survey for western pond turtle shall occur within 48 hours prior the start of construction activities within the aquatic habitat in the vicinity of the project site. If a western pond turtle is observed in areas of active construction, construction shall cease, and a qualified biologist will be notified. Construction may resume when the biologist has inspected and determined that the western pond turtle has moved away from the area of active construction. 	<p>Implementation Responsibility: Construction contractor and qualified biologist</p> <p>Implementation Timing: 48 hours prior to the start of construction activities and during construction</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>
Cultural Resources				
Impact V.a: Historical resource	Mitigation Measure CUL-1: If previously unidentified cultural resources are encountered during project construction, the contractor shall avoid altering the materials and their stratigraphic context.	<p>Implementation Responsibility: Construction contractor and qualified</p>	<p>Monitoring Responsibility: City of San Rafael Department of Public Works</p>	<p>Initials _____</p> <p>Date _____</p>

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	A qualified professional archaeologist shall be contacted to evaluate the situation. Project personnel shall not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or abode foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.	professional archaeologist Implementation Timing: During construction		
Impact V.b: Archaeological resource	Mitigation Measure CUL-1: If previously unidentified cultural resources are encountered during project construction, the contractor shall avoid altering the materials and their stratigraphic context. A qualified professional archaeologist shall be contacted to evaluate the situation. Project personnel shall not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials.	Implementation Responsibility: Construction contractor and qualified professional archaeologist Implementation Timing: During construction	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	Historic resources include stone or abode foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.			
Impact V.c: Human remains	Mitigation Measure CUL-2: Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to be ancestral Native American, the County Coroner shall contact the NAHC. The NAHC will designate the Most Likely Descendant (MLD), who has legal jurisdiction as the proper treatment and disposition of remains. The City (lead agency) shall consult with the MLD to solicit their recommendations regarding treatment of the remains.	Implementation Responsibility: Construction contractor, County Coroner, qualified archaeologist, and the City of San Rafael Department of Public Works Implementation Timing: During construction	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____
Noise				
Impact XIII.a: Temporary increase in ambient noise levels	Mitigation Measure NOISE-1: The City shall incorporate the following practices into the construction documents to be implemented by the project contractor:	Implementation Responsibility: City of San Rafael Department of Public Works and construction contractor	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<ul style="list-style-type: none"> Construction hours shall be limited to 7:00 A.M. to 5:00 P.M. Monday through Friday, unless otherwise approved in writing by the Director of Public Works. Notify businesses, residences, and noise-sensitive land uses adjacent to construction sites of the construction schedule in writing. Designate the City's construction manager as responsible for responding to any local complaints about construction noise. The construction manager shall determine the cause of the noise complaints (for example starting too early, or a bad muffler) and institute reasonable measures to correct the problem. Conspicuously post a telephone number for the construction manager at the construction site. Maximize the physical separation between noise generators and noise receptors. Such separation includes, but is not limited to, the following measures: <ul style="list-style-type: none"> Use heavy-duty mufflers for stationary equipment and barriers 	<p>Implementation Timing: Prior to and during construction</p>		

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>around particularly noisy areas of the site or around the entire site;</p> <ul style="list-style-type: none"> ▪ Where feasible, use shields, impervious fences, or other physical sound barriers to inhibit transmission of noise to sensitive receptors; ▪ Locate stationary equipment to minimize noise impacts on the community; and ▪ Minimize backing movements of equipment. <ul style="list-style-type: none"> • Use quiet construction equipment whenever possible. • Impact equipment (e.g., jack hammers and pavement breakers) shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically-powered tools. Compressed air exhaust silencers shall be used on other equipment. Other quieter procedures, such as drilling rather than using impact equipment, shall be used whenever feasible. • Prohibit unnecessary idling of internal combustion engines. 			

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
Tribal Cultural Resources				
Impact XVIII.a.i and a.ii: Historical resources and tribal cultural resources	Mitigation Measure CUL-1: If previously unidentified cultural resources are encountered during project construction, the contractor shall avoid altering the materials and their stratigraphic context. A qualified professional archaeologist shall be contacted to evaluate the situation. Project personnel shall not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or abode foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.	Implementation Responsibility: Construction contractor and qualified professional archaeologist Implementation Timing: During construction	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____
	Mitigation Measure CUL-2: Although unlikely, if human remains are encountered, all work must stop in the immediate vicinity of the discovered remains and the County Coroner and a qualified archaeologist must be notified immediately so that an evaluation can be performed. If the remains are deemed to	Implementation Responsibility: Construction contractor, County Coroner, qualified archaeologist, and City of San Rafael Department of Public Works	Monitoring Responsibility: City of San Rafael Department of Public Works	Initials _____ Date _____

Environmental Impact	Mitigation Measures	Implementation Responsibility & Timing	Monitoring Responsibility	Performance Objective
	<p>be ancestral Native American, the County Coroner shall contact the NAHC. The NAHC will designate the Most Likely Descendant (MLD), who has legal jurisdiction as the proper treatment and disposition of remains. The City (lead agency) shall consult with the MLD to solicit their recommendations regarding treatment of the remains.</p>	<p>Implementation Timing: During construction</p>		



State of California – Natural Resources Agency
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Bay Delta Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 29, 2022

Raed Al-Zaher, Project Manager
City of San Rafael
111 Morphew Street
San Rafael, CA 94901
Raed.Al-Zaher@cityofsanrafael.org

Subject: Rotary Manor Culvert Replacement Project, Mitigated Negative Declaration,
SCH No. 2022100506, City of San Rafael, Marin County

Dear Mr. Al-Zaher:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of San Rafael (City) for the Rotary Manor Culvert Replacement Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Rotary Manor Culvert Replacement Project

Objective: Replace a corrugated metal culvert conveying San Rafael Creek with a reinforced box culvert.

Location: 1821 Fifth Avenue, San Rafael, CA 94901, Marin County, with an approximate centroid of 37.975294, -122.539173 (NAD 83).

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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Timeframe: Construction of the proposed Project would take approximately 3.5 months in 2023.

REGULATORY REQUIREMENTS

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to LSA Notification requirements. **As described in the MND (page 62), the Project would impact San Rafael Creek, and therefore an LSA Notification would be required, as further described below.** CDFW would consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document. Based on the Project's avoidance of significant impacts on biological resources with implementation of mitigation measures, including those CDFW recommends below which are also included in Attachment 1, Draft Mitigation and Monitoring Reporting Plan, CDFW concludes that an MND is appropriate for the Project.

I. Project Description and Related Impact Shortcoming

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or the U.S. Fish and Wildlife Service (USFWS)?

Comment 1: Riparian habitat and LSA Notification, Page 62

Issue: The MND does not include a mitigation measure ensuring that impacts to riparian habitat will be reduced to less-than-significant by requiring compliance with LSA Notification requirements.

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Specific impacts, why they may occur and be potentially significant: The Project may substantially adversely affect riparian habitat by removing riparian habitat, resulting in the loss or degradation of this vulnerable habitat type. The MND states that the Project will require an LSA Agreement and 401 and 404 water quality certifications, and that restoration and other permit conditions required by these permits will reduce impacts to less-than-significant (Page 62); however, obtaining the above permits is not required in an enforceable mitigation measure.

Recommended Mitigation Measure: To reduce potential impacts to riparian vegetation to less-than-significant and comply with LSA requirements pursuant to Fish and Game Code section 1600 et seq., CDFW recommends including the mitigation measure below.

Lake and Streambed Alteration. The Project shall submit an LSA Notification to CDFW prior to the start of Project activities and comply with all conditions of the LSA Agreement, if issued. The Project shall also obtain 401 and 404 water quality certifications pursuant to the Clean Water Act and comply with these permits.

II. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 2: Napa false indigo (*Amorpha californica* var. *napensis*), bent-flowered fiddleneck (*Amsinckia lunaris*), Koch's cord moss (*Entosthodon kochii*), and other special-status plants, Pages 28 and 30-47.

Issue: The species table on pages 30 through 47 includes several special-status plant species with an "unlikely" Occurrence Potential despite the presence of habitat. The table states that Napa false indigo has an occurrence two miles southwest of the Project site, bent-flowered fiddleneck has an occurrence 4 miles west of the Project site, and Koch's cord moss has an occurrence 8.6 miles northwest of the Project site.

Amorpha species related to Napa false indigo are spread downstream in river systems, and *Amsinckia* species related to bent-flowered fiddleneck can be carried long distances by humans and animals (DiTomaso 2000). In both cases, it appears that the potential exists for these species to occur at the Project site despite the barrier of urbanization.

Bryophytes including mosses such as Koch's cord moss are less affected by urbanization and habitat degradation than vascular plants (McCune et al. 2020), and locally and regionally uncommon bryophytes may be found in areas highly disturbed by

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human activity, including urban centers (Sabovljevic and Grdovic 2009, Zarnowiec 1996). Based on the ability of related species to persist in urban environments, this species of moss may be present at the Project site.

Specific impact, why the impact would occur, and evidence impact would be significant: Special-status plants may be impacted by ground-disturbing activities and vegetation removal. For example, vehicle, equipment and foot traffic may bury, excavate, crush, trample, or disturb special-status plants. Soil disturbance may result in permanent loss of special-status plants.

Napa false indigo is a California Rare Plant Rank (CRPR) 1B.2 species, bent-flowered fiddleneck is a CRPR 1B.2 species, and Koch's cord moss is a CRPR 1B.3 species. Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened. Most plants that are ranked 1B have declined significantly over the last century (CNPS 2021). Napa false indigo and bent-flowered fiddleneck have the additional threat rank of 0.2, indicating that 20 to 80 percent of their occurrences are threatened (CNPS 2021).

Impacts to special-status plants including Napa false indigo, bent-flowered fiddleneck, and Koch's cord moss may result in local population declines or extirpation of the species. Insufficient mitigation may result in prolonged temporal or permanent impacts to a special-status plant species' range, distribution, and population in the State. Therefore, if special-status plants such as Napa false indigo, bent-flowered fiddleneck, and Koch's cord moss would be directly or indirectly impacted by the Project, impacts would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce impacts to special-status plants to less-than-significant, CDFW recommends including the below mitigation measure.

Pre-Project Special-Status Plant Surveys. Prior to the start of Project activities, a Qualified Biologist shall conduct a habitat assessment for special-status plants in all areas that will be directly or indirectly impacted by the Project. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys and associated reporting shall be conducted according to CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities². The survey reports shall be submitted to CDFW prior to the start of construction. Project

² CDFW, 2018. <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

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activities shall not proceed until CDFW has provided written approval of the survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts to special-status plants cannot be avoided, the Project shall provide habitat compensation at a minimum 3:1 mitigation to impact ratio including permanent protection of habitat through a conservation easement and funding and implementing a long-term management plan, prior to Project activities, unless otherwise approved in writing by CDFW.

COMMENT 3: Foothill yellow-legged frog (Northwest/North Coast Clade) (*Rana boylei*),
Page 54

Issue: The MND does not include a survey requirement for foothill yellow-legged frog. The MND identifies that the Project is over four miles from current known occurrences of the species and that the Project site is surrounded by urban habitat that may present a movement barrier. However, foothill yellow-legged frog may disperse through or into the Project site via San Rafael Creek or tributaries.

Specific impacts, why they may occur and be potentially significant: If present at the Project site, foothill yellow-legged frogs could be crushed or entombed by soil or equipment during construction. The Northwest/North Coast Clade of foothill yellow-legged frog is a California Species of Special Concern (SSC). The SSC designation is given to species native to California satisfying one or more of the following criteria: 1) is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role; 2) is listed as Federally-, but not State threatened or endangered; 3) meets the State definition of threatened or endangered but has not formally been listed; 4) is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; or 5) has naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for State threatened or endangered status. Therefore, if foothill yellow-legged frog is present at the Project site, impacts to foothill yellow-legged frog would be potentially significant.

Recommended Mitigation Measure: For an adequate environmental setting and to reduce potential impacts to foothill yellow-legged frog to less-than-significant, CDFW recommends including the mitigation measures below.

Foothill Yellow-Legged Frog Survey Methodology. A Qualified Biologist shall provide a foothill yellow-legged frog survey methodology to CDFW for review and written approval no less than 30 days prior to beginning Project activities, unless CDFW approves otherwise in writing. No Project activities shall begin until foothill yellow-legged frog surveys have been completed using a method approved by CDFW. Survey

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methodology shall target all life stages and shall have an adaptive management approach based on the stream conditions at the time of surveys (i.e., whether ponded or flowing water is present, or whether the stream has been completely dry for less than 30 days). Surveys within and adjacent to the Project activity area shall include searching suitable habitat including but not limited to cavities under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks, no less than 50 feet from the streambed and 500 feet upstream and downstream of the Project activity area. Surveys should be conducted at different times of day and under variable weather conditions if possible.

Foothill Yellow-Legged Frog Surveys. Prior to starting Project activities, a Qualified Biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology (see above Mitigation Measure). If foothill yellow-legged frogs, their eggs, or any other special-status species, are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that a survey methodology and surveys for foothill yellow-legged frogs are not necessary.

Please be advised that an LSA Agreement issued for the Project would likely include the above recommended mitigation measures, as applicable.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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ENVIRONMENTAL DOCUMENT FILING FEES

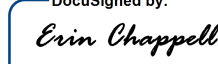
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alex Single, Environmental Scientist, at (707) 799-4210 or Alex.Single@wildlife.ca.gov; or Melanie Day, Senior Environmental Scientist (Supervisory), at (707) 210-4415 or Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

B77F9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1. Draft Mitigation and Monitoring Reporting Plan

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022100506)

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Attachment 1

Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM)	Description	Timing	Responsible Party
BIO-4	<i>Lake and Streambed Alteration.</i> The Project shall submit an LSA Notification to CDFW prior to start of Project activities and comply with all conditions of the LSA Agreement, if issued. The Project shall also obtain 401 and 404 water quality certifications pursuant to the Clean Water Act and comply with these permits.	Prior to Ground Disturbance and continuing over the course of the Project	Project Applicant
BIO-5	<i>Pre-Project Special-Status Plant Surveys.</i> Prior to the start of Project activities, a Qualified Biologist shall conduct a habitat assessment for special-status plants in all areas that will be directly or indirectly impacted by the Project. If potential habitat for special-status plants is present, botanical surveys shall be conducted during the appropriate blooming period and conditions for all special-status plants that have the potential to occur within or near the Project where they may be directly or indirectly impacted by for example, modifications to hydrological conditions. More than one year of surveys during appropriate conditions may be necessary. Surveys and associated reporting shall be conducted according to CDFW's Protocol for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities. The survey reports shall be submitted to CDFW prior to the start of construction. Project activities shall not proceed until CDFW has provided written approval of the survey reports. If any special-status plant species are observed, the Project shall fully avoid direct and indirect impacts to all individuals and prepare and implement a CDFW-approved avoidance plan prior to Project activities. If impacts to special-status plants cannot be avoided, the Project shall provide habitat compensation at a minimum 3:1 mitigation to impact ratio including permanent protection of habitat through	Prior to Ground Disturbance	Project Applicant

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	a conservation easement and funding and implementing a long-term management plan, prior to Project activities, unless otherwise approved in writing by CDFW.		
BIO-6	<i>Foothill Yellow-Legged Frog Survey Methodology.</i> A Qualified Biologist shall provide a foothill yellow-legged frog survey methodology to CDFW for review and written approval no less than 30 days prior to beginning Project activities, unless CDFW approves otherwise in writing. No Project activities shall begin until foothill yellow-legged frog surveys have been completed using a method approved by CDFW. Survey methodology shall target all life stages and shall have an adaptive management approach based on the stream conditions at the time of surveys (i.e., whether ponded or flowing water is present, or whether the stream has been completely dry for less than 30 days). Surveys within and adjacent to the Project activity area shall include searching suitable habitat including but not limited to cavities under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks, no less than 50 feet from the streambed and 500 feet upstream and downstream of the Project activity area. Surveys should be conducted at different times of day and under variable weather conditions if possible.	Prior to Ground Disturbance	Project Applicant
BIO-7	<i>Foothill Yellow-Legged Frog Surveys.</i> Prior to starting Project activities, a Qualified Biologist shall conduct surveys for foothill yellow-legged frog using a CDFW-approved methodology (see above Mitigation Measure). If foothill yellow-legged frogs, their eggs, or any other special-status species, are found, CDFW shall be notified immediately and construction shall not occur without written approval from CDFW allowing the Project activities to proceed. If foothill yellow-legged frog egg masses are observed in a stream that is scheduled for dewatering, dewatering shall not occur until an egg mass relocation plan is approved in writing by CDFW and implemented. In the event adult foothill yellow-legged frogs are observed, a temporary wildlife exclusion fence shall be installed, if requested by CDFW, to prevent frogs and/or other special-status species from entering the work site. The results of the survey shall be submitted to CDFW for written acceptance prior to starting	Prior to Ground Disturbance	Project Applicant

Raed Al-Zaher, Project Manager
City of San Rafael
November 29, 2022
Page 11

	Project activities. If the Project has collected data that the stream has been completely dry for greater than 30 days prior to starting Project activities, and no water or moist areas within the streambed exist within 500 feet upstream and downstream of the Project, then the Project may request CDFW written approval that a survey methodology and surveys for foothill yellow-legged frogs are not necessary.		
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SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 3.d

Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

**Prepared by: Cory Bytof,
Sustainability Program Manager**

City Manager Approval:

TOPIC MARIN SANITARY SERVICE RATES FOR 2023

**SUBJECT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING MAXIMUM RATES COLLECTED BY MARIN SANITARY
SERVICE FOR REFUSE AND RECYCLABLE MATERIAL COLLECTION
AND DISPOSAL SERVICES, TO BE EFFECTIVE JANUARY 1, 2023.**

RECOMMENDATION

Adopt a resolution approving maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2023.

EXECUTIVE SUMMARY

This report details the rate adjustment proposal for 2023 necessary for Marin Sanitary Service (MSS) to provide refuse, recycling, and organic materials composting, hauling, and processing for customers ("rate payers") in San Rafael. Rate payers include residential homeowners, apartment owners, commercial property owners, and other businesses and tenants that pay solid waste bills from MSS. The proposed rate adjustment would allow MSS to increase rates by up to a maximum of 7.15% over 2022 levels for all rate payers. It includes adjustments based on the contractually agreed-upon rate-setting methodology the City has with Marin Sanitary Service and an extension of the Illegal Dumping Pilot Program. The proposed rate adjustment is based upon an independent third-party review of MSS's costs of providing the service by R3 Consulting Group, Inc. (R3).

BACKGROUND

Each year, the City Council holds a public hearing to approve the maximum collection rates that can be charged by MSS to customers in the City of San Rafael. These rates are based on a specific methodology contained in the Franchise Agreement the City has with MSS. This methodology was changed in 2018 when the Council adopted the third amendment to the Franchise Agreement with Marin Sanitary Service. The Background section of this report provides the overall context of the rate-setting process, the services MSS provides in San Rafael, and relevance to State law.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Franchise Agreement and Franchisors' Group

Article XI of the California Constitution and the California Public Resources Code allows cities to regulate refuse and recycling services and to collect a franchise fee from any provider of such services. MSS is our sole provider of refuse hauling and recycling services and performs these services in many surrounding communities as well. These services are pursuant to a Franchise Agreement between the City and MSS, which outlines the services that must be provided by MSS as well as a methodology to be followed to set customer rates each year.

All of the jurisdictions in Marin that have similar agreements with MSS work together to share information and reduce costs: the City of San Rafael, City of Larkspur, the Towns of Ross, San Anselmo, and Fairfax, the Las Gallinas Valley Sanitary District, and the County of Marin. This Marin franchisors' group ("franchisors") meets throughout the year to oversee MSS's operations and works together to conduct a single annual rate review analysis rather than each jurisdiction having to conduct and pay for a separate review.

Our current Franchise Agreement is the "Fourth Amendment to the Amendment and Restatement of Collection Agreement of the City of San Rafael with Marin Sanitary Service" and was approved by Council in [December 2021](#). The prior third amendment approved in [December 2018](#) contains a rate-setting methodology based on actual cost of service with a portion tied to a common index: the CPI index for Water and Sewer and Trash Collection. This methodology is intended to provide relatively stable and predictable rates, continued verifiable high levels of service, and a simplified and cost-effective rate-setting methodology that also improves accuracy and transparency.

State Law

In 2016, recognizing the negative impacts of organic materials decomposing in landfills on climate change, the State of California started mandating that businesses with certain thresholds of refuse disposal compost their organic materials (Assembly Bill (AB) 1826 enacted 2014). Beginning January 2022 [Senate Bill \(SB\) 1383](#), enacted in 2017, now requires that all residents and businesses divert their organic waste. SB 1383 also places new requirements on local governments to implement, monitor and enforce participation in organic waste diversion programs, and the California Department of Resources Recycling and Recovery (CalRecycle) is authorized to fine local governments that don't comply. The franchisors have been working with R3 to ensure compliance with SB 1383 and assess opportunities to create economies of scale working together to implement the law.

Marin Sanitary Service Programs and Services

MSS provides residential, commercial and multi-family refuse services, including garbage, recycling and organics (food waste and green waste diversion) collection and processing. MSS also provides garbage and recycling pick-up for City facilities, parks, and all sidewalk receptacles downtown and throughout San Rafael. MSS is a key partner in the City's environmental goals as well as the City and County's zero waste goals. MSS conducts the majority of the outreach for the City for the State's Mandatory Commercial Recycling and Mandatory Composting laws (AB 341, enacted in 2011, AB 1826, and SB 1383), which place requirements on businesses to recycle and divert organic waste and require annual monitoring and notifications to non-compliant businesses. MSS also has a robust community outreach and education program, and conducts numerous programs and community offerings, including an annual free compost giveaway and customer education event. All their services including the "[Where Does it Go, Joe](#)" recycling lookup feature can be found on their website at MarinSanitaryService.com.

ANALYSIS

A. Proposed Maximum Rate Adjustment for 2023

History of Rate Adjustments

Over the past ten years, rate adjustments for San Rafael have ranged from less than one percent to over 9% with an average of 4.71% annually. Last year's adjustment was 2.39% and included an Illegal Dumping Pilot project which is being proposed to continue, and a third and final adjustment to the Refuse Vehicle Impact Fee. Many factors contribute to the fluctuation in rates for refuse haulers, including a growing amount of solid waste, recycling, and organic (compostable) materials generated by residents and businesses, the costs of processing recyclables and organic materials, changes in the value of recyclable materials, landfill fees, increasing costs of labor and insurance, and changes in State laws and government fees.

Rate Review and Adjustment

Attachment B is the independent third-party analysis and report of Marin Sanitary Service's 2023 Rate Application, which was conducted by R3. San Rafael's calculated rate adjustment is 7.15%. As shown in the report, Collector Operations comprised the largest portion of the rate adjustment and was calculated using the Consumer Price Index (CPI) for Water, Sewer and Trash Collection, which was double the rate in 2021. Much of this is attributed to, and closely tracks, current inflation levels.

The second largest contribution to the rate adjustment is the Rate Revenue Reconciliation at 2.3%. The impacts of COVID-19 are still being felt and subscription levels were down dramatically as is the case with all haulers throughout the Bay Area. Last year MSS was able to receive forgiveness of their Paycheck Protection Program loan for 2020 resulting in no negative impact to the rates. However, MSS experienced a shortfall of \$613,327 in 2021 billed revenues compared to the 2021 revenue requirement, which does negatively impact the rate this year. This was anticipated and was communicated last year during the rate review.

Finally, this is also the third and final year of three of an increase in the City's Refuse Vehicle Impact Fees, which are increasing by \$345,667 over 2022, contributing 1.3% to the overall rate adjustment. Two items that reflected positively in the rates this year were a reduction in costs for Recyclable Materials Processing due to an increase in value of recyclable commodities sold by MSS and a reduction in costs for R3's support of SB 1383 implementation. Together, these items contributed a total 0.62% reduction to the rate adjustment.

Illegal Dumping Program

Two years ago, a cross-departmental Together San Rafael Team ("Team") developed a 5-year plan with a robust goal of 50% reduction in dumping by 2025. The Team was expanded last year to include MSS, R3, Gigantic Idea Studios, the Mattress Recycling Council, and Conservation Corps North Bay. This year we expanded to include community members through Voces del Canal, Mujeres Empoderadas, and the Canal Community Resilience Council.

Part of the early work of this project was to better understand who is dumping and why, as well as what types of materials are most prevalent. The Team has identified three major types of dumpers with the understanding that each type requires different solutions to achieve success: *Casual Dumpers*, who usually are renters that have no access to free, on-site disposal and set things out on the curb; *Illicit Dumpers*, who know this is illegal, have large amounts of items to dispose of, and seek out-of-the-way locations to dump; and dumpers who are experiencing homelessness. These pilots focus on the first two, while the Team has collaborated with the Health and Safety Committee to assist with waste management related to homelessness.

Last year was the third year of pilot projects aimed at understanding the upstream causes of the problem, identifying potential solutions, and conducting activities for different types of dumping

based on three key areas of focus:

- Access to inexpensive disposal options
- Education and community engagement
- Targeted enforcement

The pilot programs focused primarily on disposal options and community engagement. While single family homeowners can have bulky items picked up curbside twice a year, renters in multi-family units have no such option and the Team has been conscious about bringing an equity lens to the analysis. Thus, the pilots have been primarily focused on providing cost-effective disposal options that adequately address people's needs.

In 2022, the following pilots and activities were conducted:

1. 12 Monthly Bulky item drop-off days at Pickleweed Park targeting our neighborhoods with the most prevalent illegal dumping in the Canal and near downtown.
2. A pilot in conjunction with the Mattress Recycling Council to test an on-call bulky item pickup program in partnership with a small group of apartment managers.
3. A "Hot Spot" campaign of data analysis, mapping, and surveillance camera installations with enforcement in locations where dumping is a common occurrence.
4. A service-level analysis of multi-family properties, and a policy analysis for potential permanent policy considerations with regard to minimum refuse and recycling service levels and bulky item disposal.
5. A "What to do with Unwanted Junk" flyer and magnet sent to all multifamily tenants in San Rafael with a QR code to a City informational web page.
6. Mini-grants and commercial vouchers for businesses that experience dumping on their property.
7. Continued tracking and curing of dumping data to measure pre and post intervention results (including types of material, amounts, and locations) and updates to our data dashboard.

Proposed 2023 pilots and activities can be broadly categorized into the following areas:

1. Continue the successful Bulky Item Drop-off events to offer consistent, monthly disposal opportunities.
2. Continue the mini-grant program for businesses.
3. Continue our analysis of policy language and potential rate restructuring to address the lack of service options for multifamily tenants and managers for disposal of bulky items including mattresses with the intent of bringing final policy considerations to Council in late 2023.

Analysis by City staff, R3 and our community partners, including MSS, has concluded that the bulky item drop-off days have been the most successful and cost-effective disposal options for renters to date. Community members appreciate the events and have provided input on ways to maximize participation. Additionally, they are helpful for apartment managers trying to do the right thing with limited resources. A major challenge identified last year was the need to effectively market the events to ensure that they are well known and utilized throughout the community. Community surveys conducted in October showed that a full 50% of Canal residents now know about these days, and we recorded a significant increase in participation and tonnage of materials disposed of the second half of the year. In addition, there was a 25% drop in illegal dumping pickups up by the Department of Public Works in 2022 in the Canal neighborhood. Though there is not enough data to establish causation at this point, the correlative data combined with the increase in community knowledge gives staff hope that this will be a solid long-term solution to

consider.

In addition, the pilots for 2023 will continue to conduct Hot Spot campaigns and targeted enforcement, an exploration of policy options, and increased data gathering and mapping to measure progress and uncover additional solutions. Data gathering is critical and was still being refined this year due to the number of people in different departments collecting data, and 2022 was our first year of ensuring consistency across departments.

Importantly, to address a key barrier for renters, the Team will continue to explore on-call bulky item collection options for tenants who don't have the ability to transport to the bulky item days. Staff and R3 will conduct a policy and cost analysis that combines free or low-cost disposal opportunities with increased enforcement against properties that allow accumulation of dumped materials ("carrot and stick approach"). This would essentially make bulky items another part of waste management for property owners much like current trash bin refuse, recycling and composting. However, the financial and equity analysis is crucial to understanding the relative merits and potential unintended consequences.

Business resources will include additional mini-grants for protective measures for private property owners who are experiencing dumping on their properties. Enforcement mechanisms will continue to be implemented, including sign installation and surveillance cameras in Hot Spots, which are separate from these rate-funded pilots.

This suite of proposed pilot programs, data gathering, and analysis carries an estimated cost of approximately \$127,000, commensurate to previous years. Staff will offset some of the costs through use of the City's annual Zero Waste Grant, reducing the amount to a total \$100,000 in proposed new funds, or 0.4% impact to the 2023 rate adjustment. The Team will also seek other funding such as through CalRecycle in an effort to increase activities and reduce impact to the rates. The 2023 Illegal Dumping Funding Memo with more detail is included as Attachment C.

Conclusion

R3 reviewed the application and all relevant documents and financial schedules with MSS, including the Illegal Dumping Pilot extension. The full schedule of rate adjustment line items can be found on page 1 of Attachment B: Review of Marin Sanitary Service's 2023 Rate Application. Staff has reviewed the rate adjustment and programs with a Council Subcommittee comprised of Councilmembers Bushey and Llorens Gulati, resulting in the staff recommendation to approve allowing the maximum amount to be collected in 2023 with a rate adjustment of 7.15%.

This rate adjustment would result in an overall increase of \$3.35 per month for a residential 32-gallon cart, which is the most common cart size, for a total monthly fee of \$50.19. For a common commercial size there would be an overall increase of \$41.37 per month for a 3 cubic yard bin, for a monthly total of \$620.02. Recycling is included in all accounts and customers can reduce their regular landfill container size or pickup schedule resulting in a lower rate by recycling and by reducing overall waste generation. Organics recycling is also provided, which is automatically part of the residential rates, and approximately 60% reduction of refuse service for the commercial composting program.

R3 conducted a survey of Bay Area solid waste rates as part of the rate review, included on the last page of their report. It summarizes the survey data for residential 30-35 gallon can weekly service with curbside recycling and organics pickup. However, note that proposed 2023 rates are not yet available for other jurisdictions. This summary compares proposed San Rafael 2023 base rates to other jurisdictions' 2022 actual rates, which will likely also increase. Using this

comparison, San Rafael's rates are slightly higher than other Bay Area jurisdictions and slightly lower than most other Marin jurisdictions. It is important to note that jurisdictions often provide different services and service levels, so the comparisons are not apples-to-apples. San Rafael's rates have traditionally been comparable with rates in other Bay Area jurisdictions, while often providing more services.

As in previous years, staff is recommending that the approved maximum rate adjustment be applied across the board to all residential, multi-family and commercial service accounts. Actual maximum rates for all services are provided in Attachment A as Exhibit C - Schedule of Rates.

COMMUNITY OUTREACH

Notice of the public hearing was published twice in the *Marin Independent Journal* (Attachment D) and emailed to all names on file with the City Clerk and City Manager's Office. Information on the maximum annual rate that MSS may collect has been available at the City Clerk's office during the 10 days prior to the public hearing. The proposed rate information was also provided directly to the San Rafael Chamber of Commerce, the Business Improvement District, Marin Builder's Association, and other interested parties.

FISCAL IMPACT

Exhibit C to the resolution contains the complete maximum rate request. If approved, the maximum rates would be authorized for all customer types and service options and satisfies the City's contractual obligations to meet the MSS revenue requirement to cover costs for San Rafael refuse and recycling services, including franchise fees.

OPTIONS

1. Adopt a resolution approving maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2023 for a total increase of 7.15% over 2022 rates.
2. Adopt the resolution with modifications.
3. Do not adopt the resolution at this time and direct staff to come back with more information.

RECOMMENDED ACTION

Adopt a resolution approving maximum rates collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services, to be effective January 1, 2023.

ATTACHMENTS

Attachment A:	Resolution with Rate Schedule (marked as Exhibit C)
Attachment B:	R3 Review of MSS Rate Application, including Bay Area Rate Survey
Attachment C:	R3 2022 Illegal Dumping Funding Memo
Attachment D:	Public Hearing Notice

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING MAXIMUM RATES COLLECTED BY MARIN SANITARY SERVICE FOR REFUSE AND RECYCLABLE MATERIAL COLLECTION AND DISPOSAL SERVICES, TO BE EFFECTIVE JANUARY 1, 2023

WHEREAS, the City of San Rafael and Marin Sanitary Service have entered into an "Amendment and Restatement of Collection Agreement of the City of San Rafael and Marin Sanitary Service," dated September 4, 2001 and amended by a written first amendment dated March 1, 2005, a written second amendment dated November 14, 2012, a written third amendment dated February 25, 2019, and a written fourth amendment approved by the City Council on December 6, 2021 (hereafter the "Franchise Agreement"); and

WHEREAS, Section 3 (B) of the Franchise Agreement provides for maximum rates allowed to be collected by Marin Sanitary Service, to be approved from time to time by the City Council; and

WHEREAS, Exhibit "C" of the Franchise Agreement provides rate schedules, to be approved by the City Council; and

WHEREAS, Marin Sanitary Service has submitted a rate application request for 2023 using the methodology outlined under Section 3 (A) of the Franchise Agreement; and

WHEREAS, the City of San Rafael has conducted a review of said rate application based on a formula determined by Marin Sanitary Service's actual cost of service and produced a report concurring with Marin Sanitary Service's rate and fee adjustments; and

WHEREAS, the rates for solid waste service are set and imposed by MSS, and by adopting this resolution, the City does not intend to impose any rates, fees, or charges. However, to the extent that the adoption of this resolution results in the City's imposition of any fees, rates, or charges for services or facilities in connection with a solid waste system, those charges are adopted pursuant to California Health and Safety Code section 5471; and

WHEREAS, on December 5, 2022, the City Council held a duly noticed public hearing to consider the rate application request and receive public testimony thereon; and

WHEREAS, the City of San Rafael has determined that such rate and fee adjustments are proper, in the best interest of all citizens, and will promote public health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS: The schedule of maximum rates and fees attached hereto as "Exhibit C" and incorporated herein by reference, is hereby approved to be collected by Marin Sanitary Service for refuse and recyclable material collection and disposal

services, at an increased rate of 7.15% from 2022, to be effective January 1, 2023. Said "Exhibit C" shall be incorporated as the revised Exhibit "C" to the Franchise Agreement.

I, Lindsay Lara, City Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 5th of December 2022, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

LINDSAY LARA, City Clerk

FINAL REPORT

City of San Rafael

Review of Marin Sanitary Services' 2023 Rate Application

submitted electronically: November 18, 2022

November 18, 2022

Ms. Cristine Alilovich
Assistant City Manager
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94919

submitted via email: cristine.alilovich@cityofsanrafael.org

SUBJECT: Final Report – Review of Marin Sanitary Service’s 2023 Rate Application

Dear Ms. Alilovich,

R3 Consulting Group, Inc. (R3) is pleased to submit this report detailing the results of our review of Marin Sanitary Service’s (MSS’s) 2023 rate application for the City of San Rafael.

This review was conducted pursuant to R3’s engagement with the seven agencies (Agencies) served by MSS, including the City of San Rafael, City of Larkspur, County of Marin, Las Gallinas Valley Sanitary District, Town of Ross, Town of Fairfax, and the Town of San Anselmo.

This report summarizes results from our review of MSS’s 2023 indexed rate application per the streamlined rate setting methodology established in 2019. The methodology is described in the amended Exhibit B to the Franchise Agreement that the Town holds with MSS.

* * * * *

We appreciate the opportunity to be of service to the Town. Should you have any questions regarding this report or need any additional information, please do not hesitate to reach out directly.

Sincerely,



Jim Howison | Sr. Managing Consultant
R3 Consulting Group, Inc.
925.768.7244 | jhowison@r3cgi.com

1. FINDINGS

Executive Summary

On August 31, 2022, MSS submitted its application for an increase to its solid waste rates, to be effective January 1, 2023. This is an indexed year rate adjustment, which primarily projects compensation due to MSS based on the applicable water-sewer-trash CPI Index (WST). Based on our review of the rate application, R3 concurs with MSS's calculated 2023 rate revenue requirement of \$28,553,184, which is \$1,902,896 higher than the 2022 rate revenue requirement of \$26,630,288. The corresponding adjustment to the City's solid waste rates for 2023 is 7.15%, based on a January 1, 2023 effective date.

Table 1: 2023 Rate Adjustment Summary

	2022	2023	Dollar Change	Percentage Change	Adjustment to Rates
Collector Operations	16,644,156	17,380,581	736,425	4.42%	2.77%
Garbage Landfilling and Organics Processing	2,677,356	2,790,260	112,904	4.22%	0.42%
State Compliance Database Subscription	7,694	8,393	699	9.09%	0.00%
SB 1383 Compliance	208,064	209,174	1,110	0.53%	0.00%
Illegal Dumping Pilot Program	103,540	100,000	(3,540)	-3.42%	-0.01%
Profit Calculation	2,061,742	2,150,717	88,975	4.32%	0.33%
Recyclable Materials Processing	305,461	189,407	(116,054)	-37.99%	-0.44%
Interest	378,509	395,256	16,747	4.42%	0.06%
Zero Waste Marin Fees	374,701	379,410	4,709	1.26%	0.02%
Franchise Fees	2,663,029	2,791,986	128,957	4.84%	0.48%
Other Agency Fees	1,134,934	1,480,601	345,667	30.46%	1.30%
Annual Rate Revenue Reconciliation	0	613,327	613,327	100.00%	2.30%
Recycling Property Insurance	47,486	67,689	20,203	42.55%	0.08%
SB 1383 Negotiations and Implementation Support	23,617	(23,617)	(47,234)	-200.00%	-0.18%
Total Annual Rate Revenue Requirement	26,630,288	28,533,184	1,902,896	7.15%	7.15%

2023 Rate Adjustment Details

Collector Operations

Collector Operations compensates MSS for labor, benefits, general and administrative, depreciation and lease, maintenance, fuel and oil. Per Exhibit B, compensation for Collector Operations is adjusted using the CPI index for Water and Sewer and Trash Collection. R3 used publicly available Bureau of Labor Statistics data to verify the calculated increase of 4.42% to Collector Operations. Per Exhibit B, the rate adjustment is subject to a 2.5% minimum and a 5% maximum rate cap for MSS's collection operations. The result is \$17,380,581 in Collector Operations for the City of San Rafael in 2023, which is an increase of \$736,425 compared to 2022.

Garbage and Organics Tipping Fees

Garbage Landfilling and Organics Processing tipping fee projections are calculated using actual tonnages collected from January 1 through June 30, 2022, which are then annualized to project total 2022 tonnages. Those tonnages are then multiplied by the projected 2022 tipping fees calculated in

accordance with Exhibit B. This is based on the actual per ton tipping fees for each waste stream category, or if unavailable, projected tipping fees are calculated using the current year per ton tipping fees escalated by the change in WST— subject to a minimum increase of 2.5% and a maximum increase of 5.0%.

R3 reviewed MSS's projected 2022 tons and the 2023 per ton tipping fees for residential garbage, residential green waste/organics, commercial garbage, commercial mixed waste for processing, commercial food scraps, and MSS-served Agencies' waste delivered to MSS. Per Exhibit B, R3 confirmed that MSS materially correctly projected tons by category using annualized actual tons for the first six months of the current rate year and, as actual tipping fees are unavailable, applied the 4.42% WST adjustment to project 2023 per ton tip fees. The result is \$2,790,260 in Garbage and Organics Tipping fees for the City in 2023, which is an increase of \$112,904 compared to 2022.

Database Subscription for Compliance with State Law

The rate setting methodology allows for the recovery of additional revenues associated with costs for changes in law and/or new State mandates. For increased operating expenses due to State Laws, including AB 1826 and SB 1383, MSS has included in its rate application a line item for a compliance database. This item was added and approved in MSS's 2020 and 2021 Rate Adjustment applications for MSS's subscription to Recyclist, which is a valuable reporting tool related to compliance with State Law. MSS expects this line item will continue to be present in future rate applications. The result is an increase of \$699 in Database Subscription for the City in 2023, for a total cost of \$8,393 in 2023 compared to \$7,694 in 2022.

Compliance with SB 1383

MSS is requesting continued revenue in association with SB 1383 with the goal of increasing compliance with the State of California's organics state mandate(s). The company will continue to provide compliance monitoring and inspection services, contamination monitoring, outreach and education, and reporting functions on behalf of the City. The total 2023 revenue recovery for these new SB 1383 compliance measures for MSS is \$209,174 or an increase of \$1,110.

Illegal Dumping Pilot Program Funding

Since 2020, the City has been piloting and testing programs to reduce and abate incidences of illegal dumping in the City, in partnership with MSS and others. In 2021, the City allocated \$60,000 in rate revenues for the illegal dumping pilot program. For 2022, City staff recommended \$103,540 in illegal dumping pilot program funding, which was an increase of \$43,540 compared to 2021. For 2023 the illegal dumping budget is set at \$100,000 due to the overwhelming community support for the program.

Profit Calculation

R3 reviewed the calculation of MSS's profit, which is a function of total allowable operating expenses (\$20,488,408 for the City) divided by the contractually set operating ratio of 90.5% and subtracting the same sum, rounded to the nearest dollar. MSS's actual profit achievement will vary depending on the company's real revenues and expenses; as such, profit is not guaranteed. The result is \$2,150,717 in Calculated Profit for the City in 2023, which is an increase of \$88,975 compared to 2022. The increase is due to a net increase in allowable operating expenses, which were described in the previous sections of this report.

Recyclable Materials Processing

A net recyclable materials processing cost is calculated each year to share the risks and rewards of changing recycling markets between rate payers and MSS. Per Exhibit B, the Recyclable Materials Processing cost is escalated by the annual change in the WST and that amount is then divided by the number of all tons of recyclable materials processed at Marin Recycling Center from July 1 of the prior rate year through June 30 of the current rate year.

The recyclable materials revenue amount is calculated based on 90% of the total revenue received by the Marin Recycling Center for recyclable materials, which is then divided by the number recyclable material tons processed at Marin Recycling Center. The calculation does not include income or tons from recyclable materials processed for third parties or agencies that were not customers of MSS or the Marin Recycling Center as of December 31, 2018. For Rate Year 2023, the resulting Net Recyclable Materials Processing Cost Per Ton is \$18.72, a decrease of \$10.87 from the 2022 value of \$29.59. This reduction is due to increases in the value of recyclable commodities sold by MSS. The result is \$189,407 in Recyclable Materials Processing costs for the City in 2023, which is a decrease of \$116,054.

Interest

Interest is based on MSS's actual interest from its loan amortization schedules for actual and projected capital expenditures for services under the Agreement as of the last base year review in 2019. This is increased in the same manner as Collector Operations, as described above, via WST annually. The result is \$395,256 in interest for the City in 2023, which is an increase of \$16,747 compared to 2022.

Zero Waste Marin Fees

Zero Waste Marin Fees are set as a pass through as government fees and, per Exhibit B to the agreements, changes in such fees result in appropriate adjustments to rates to compensate MSS for increases or decreases in such fees. Zero Waste Marin fees included in the annual indexed rate applications for the MSS service area are set to be equal to the current Zero Waste Marin Fee assessments for the current fiscal year, with 100% of the MSS hauler fees passed through to the MSS Agencies, and with none of the MSS Transfer Station fees passed through to the MSS Agencies. The result is \$379,410 in Zero Waste Marin Fees for the City in 2023, which is an increase of \$4,709 to 2022.

Franchise Fees

Franchise Fees are calculated by multiplying the applicable franchise fee percentage by each agency served by MSS by the revenues projected for each that Rate Year. The City's Franchise Fee is 10% of gross revenues. The result is \$2,791,986 in Franchise Fees for the City in 2023. Franchise Fees fund the costs of compliance with State laws, management and administration of the City's Agreement with MSS, and compensate the City for the value of the property rights conveyed to MSS via the Agreement.

Other Agency Fees

Other Agency Fees are calculated and applied to each of the Agencies based on the specific fees set by those Agencies. MSS pays the City a \$1,480,601 Vehicle Impact Fee to cover the cost of road impacts from MSS's solid waste collection vehicles

Annual Rate Revenue Reconciliation

The Rate Revenue Reconciliation item is to reconcile the projected rate revenue from the 2021 rate adjustment to the actual revenue collected through rates charged during the 2021 rate year. Due to the impacts of the COVID-19 pandemic, MSS experienced a shortfall of \$613,327 in 2021 billed revenues in the City compared to the 2021 revenue requirement. That amount is therefore included in the 2023 revenue requirement.

Recycling Property Insurance

Property insurance for recycling processing facilities have gone up across the country for circumstances outside of MSS's control. MSS has previously and separately briefed the Agencies on this item, and R3 is aware of the market circumstances surrounding it. R3 finds that this extraordinary item is supported and reasonable. The result is \$67,689 in Recycling Property Insurance for the City in 2023, which is an increase of \$20,203 compared to 2022.

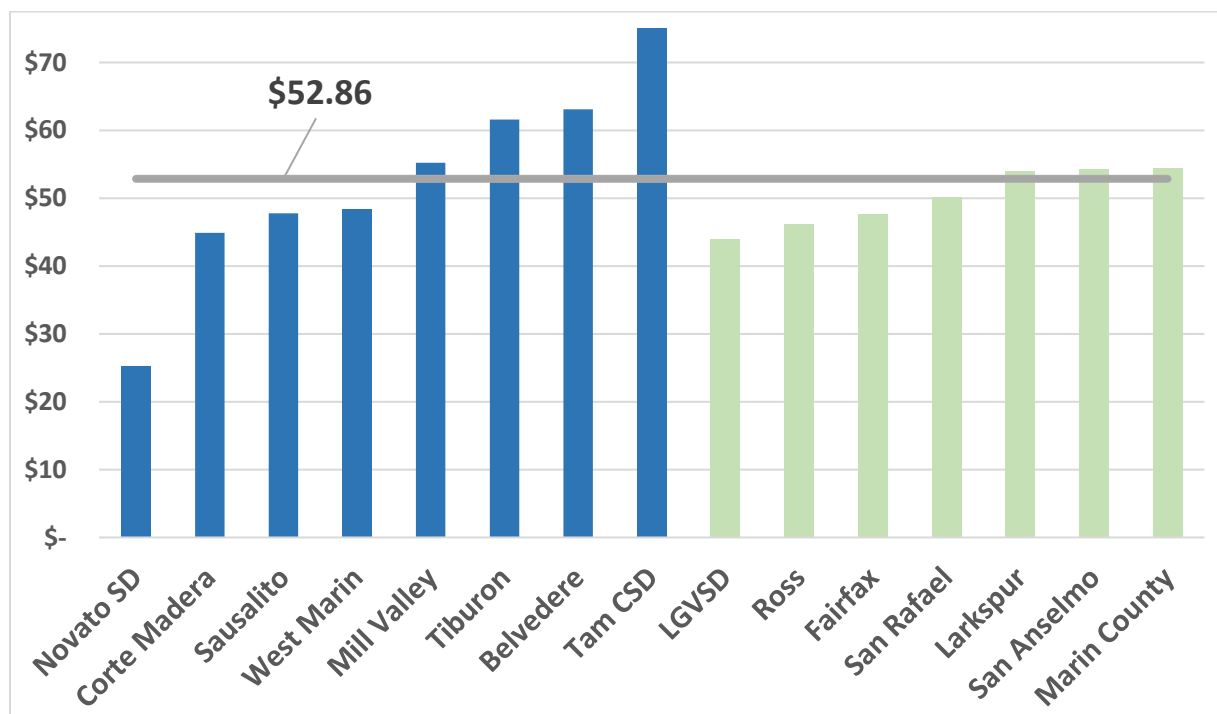
Funding for SB 1383 Contract Negotiations and Implementation

The MSS served Agencies have contracted with R3 to provide support for negotiation of an amendment to the MSS franchise agreements with the Agencies, effectuating the new services, terms and conditions for SB 1383 compliance. That contract also includes a contingency for support to the Agencies in implementing SB 1383 in 2022. R3's expenses for that work were budgeted at \$44,380 but then determined that services were not needed. For 2023 the total \$44,380 in budgeted costs were deducted from the rate application as services were deemed unnecessary, providing a full refund to the rate payers. The City of San Rafael's portion of the refund totaled \$23,617 and is in the 2023 rate request.

Survey of Comparable Rates

Figure 1 illustrates R3's survey of solid waste rates as of October 2022 for agencies located throughout the Marin County. These survey results are presented as an indication of the reasonableness of the resulting rates for 2023. For comparison purposes, agencies serviced by Marin Sanitary Services (MSS) are designated in green and represent the proposed pricing for 32-gallon cart, including the current rate increase. Other, non-MSS service agencies are designated in blue and are current pricing, though price increases are expected for 2023 as well. The average cost for the 30–35-gallon cart for non-MSS service agencies is represented by the grey line is \$52.86. For the residents of San Rafael, the 32-gallon cart is projected to cost \$50.19 per month for the flat regions of the City. The 2023 Hill Rate for the 32-gallon cart is projected at \$56.85 per month. The City's 's commercial rates for a 3-cubic yard bin serviced one time per week will be \$620.02 compared to \$578.62 the previous year.

Figure 1: Comparison of MSS's 2023 Rates to Other Marin County Agencies



CITY OF SAN RAFAEL
EXHIBIT C - SCHEDULE OF RATES

RESIDENTIAL REFUSE COLLECTION RATES					
Rate increase: 7.15%					
Effective date: 01/01/2023					
REOCURING CHARGES	Residential Service (Bundled service includes 1 landfill (garbage) cart, 1 organics cart, & 1 recycling split cart)				
	Weekly Service Rates (Billed Quarterly)	2023 Flat rate		2023 Hill Rate	
		Monthly Rate	Quarterly Rate	Monthly Rate	Quarterly Rate
	20 gallon cart	\$42.67	\$128.01	\$48.31	\$144.93
	32 gallon cart	\$50.19	\$150.57	\$56.85	\$170.55
	64 gallon cart	\$100.38	\$301.14	\$113.70	\$341.10
	96 gallon cart	\$150.57	\$451.71	\$170.55	\$511.65
	Low income - 20 gal* cart	\$34.14	\$102.42	\$38.65	\$115.95
	Low income - 32 gal* cart	\$40.15	\$120.45	\$45.48	\$136.44
	Low income - 64 gal* cart	\$80.30	\$240.90	\$90.96	\$272.88
	Low income - 96 gal* cart	\$120.46	\$361.38	\$136.44	\$409.32
	Senior rate**Discontinued	\$35.43	\$106.29	\$45.11	\$135.33
	Additional Organics Cart Rental (35 or 64 gallon cart)	\$2.68	\$8.04	\$2.68	\$8.04
	Additional Split Cart Rental (64 or 96 gallon cart)	\$2.68	\$8.04	\$2.68	\$8.04
	Additional Monthly Charges	Monthly Fee (per cart, each way)	Quarterly Fee		
	Distance 5' - 50'	\$6.51	\$19.53		
	Distance Over 50'	\$13.19	\$39.57		

*Must meet PG&E CARE program eligibility requirements.

**Customers with these rates prior to 2005 will keep the existing rate type. No new customers will be added with this rate type.

NOTE: We may not be able to accommodate any collection requests NOT at the curb due to a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

ONE TIME SERVICE FEES	Additional Service Fees per Occurrence	Fee
	Return Fees - Off day	\$25.00
	Return Fees - Same day	\$10.00
	Resume Service/Late Fee	\$35.00
	Contamination (cart) any size cart	\$30.00
	Overload/Overweight (cart)	\$25.00
	Extra bag garbage	\$15.00
	Extra bag yard waste	\$10.00
	Steam Clean (cart)	\$15.00
	Special Collection	\$35.00
	Special Handling (Bulky items)	\$30.00
	Bulky item fees per item	Fees Vary
	Cart Strap Set-up Admin Fee	\$25.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
	64 Gal Split Cart Replacement Fee	\$90.00
	96 Gal Split Cart Replacement Fee	\$100.00

CITY OF SAN RAFAEL
EXHIBIT C - SCHEDULE OF RATES

COMMERCIAL REFUSE COLLECTION RATES

Rate increase: 7.15%
Effective date: 01/01/2023

	COMMERCIAL CARTS, BINS, ROLL-OFFS	Collections per Week						Additional One Time Empty
		1	2	3	4	5	6	
REOCURING CHARGES	Garbage							
	20 gallon cart*	\$42.67	\$85.34	\$128.01	\$170.68	\$213.35	\$256.02	\$9.85
	32 gallon cart	\$49.85	\$99.70	\$149.55	\$199.40	\$249.25	\$299.10	\$11.50
	64 gallon cart	\$99.70	\$199.40	\$299.10	\$398.80	\$498.50	\$598.20	\$23.01
	96 gallon cart	\$149.55	\$299.10	\$448.65	\$598.20	\$747.75	\$897.30	\$34.51
	1 yard bin	\$323.98	\$654.18	\$990.59	\$1,333.32	\$1,682.17	\$2,037.24	\$74.76
	2 yard bin	\$476.35	\$1,094.44	\$1,660.32	\$2,238.64	\$2,829.42	\$3,432.64	\$109.93
	3 yard bin	\$620.02	\$1,154.58	\$1,759.95	\$2,383.88	\$3,026.59	\$3,687.94	\$143.08
	4 yard bin	\$884.52	\$1,635.13	\$2,489.97	\$3,369.81	\$4,035.48	\$5,204.13	\$204.12
	5 yard bin	\$956.81	\$1,924.30	\$2,933.26	\$3,973.18	\$5,044.36	\$6,146.57	\$220.80
	6 yard bin	\$1,135.91	\$2,309.16	\$3,519.88	\$4,767.86	\$6,053.18	\$7,375.90	\$262.13
	10 yard roll-off	\$1,601.00	\$3,276.34	\$5,028.06	\$6,853.55	\$8,753.79	\$10,728.68	\$369.46
	18 yard roll-off	\$2,875.56	\$5,885.72	\$9,030.28	\$12,309.31	\$15,722.82	\$19,270.86	\$663.59
	20 yard roll-off	\$3,195.17	\$6,539.66	\$10,033.62	\$13,676.98	\$17,469.80	\$21,412.02	\$737.35
	25 yard roll-off	\$4,469.53	\$9,148.27	\$13,486.24	\$18,383.07	\$23,480.98	\$28,779.77	\$1,031.43
	Organics (F2E or Compost)	1	2	3	4	5	6	Additional One Time Empty
	32 gallon	\$20.67	\$41.34	\$62.01	\$82.68	\$103.35	\$124.02	\$4.77
	64 gallon	\$41.34	\$82.68	\$124.02	\$165.36	\$206.70	\$248.04	\$9.54
	1 yard	\$144.67	\$289.34	\$434.01	\$578.68	\$723.35	\$868.02	\$33.39
	2 yard	\$289.34	\$578.68	\$868.02	\$1,157.36	\$1,446.70	\$1,736.04	\$66.77
	3 yard	\$434.01	\$868.02	\$1,302.03	\$1,736.04	\$2,170.05	\$2,604.06	\$100.16
	10 yard roll-off	\$1,120.70	\$2,241.40	\$3,362.10	\$4,482.80	\$5,603.50	\$6,724.20	\$258.62
	18 yard roll-off	\$2,017.26	\$4,034.52	\$6,051.78	\$8,069.04	\$10,086.30	\$12,103.56	\$465.52
	20 yard roll-off	\$2,241.40	\$4,482.80	\$6,724.20	\$8,965.60	\$11,207.00	\$13,448.40	\$517.25
	25 yard roll-off	\$2,801.75	\$5,603.50	\$8,405.25	\$11,207.00	\$14,008.75	\$16,810.50	\$646.56
	Garbage Compactors (Per empty)							
	Roll-off Compactor Tipping fee per ton	\$137.60			Roll-off Compactor Hauling charge			\$309.28
	Stationary FL (Per Compacted Yard)	\$119.50			Roll-off Compactor Special handling			Rates Vary
	Other Charges	Service	Fee		Details			
		Lock	\$25.00		Monthly fee			
		Box rental	Fees Vary		Minimum Bimonthly fee			
		Distance < 50ft	\$6.51		Monthly fee per cart, each way			
		Distance > 50ft	\$13.19		Monthly fee per cart, each way			

* Customers must have a sufficient level of service for the volume of material generated. Requests for 20gal carts require assessment and approval of a Route Manager.

NOTE: All container types and sizes may not be available at all locations depending on a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

	Commercial Service Fees	Fee
ONE TIME SERVICE FEES	Return Fee - BIN	\$75.00
	Return Fee - CART -same day	\$10.00
	Return Fee - CART -off day	\$25.00
	Late Fee/Resume Service Fee	\$35.00
	Contamination (BIN)	\$50.00
	Contamination (CART)	\$30.00
	Overload/Compaction (BIN)	\$60.00
	Overload/Compaction (CART)	\$25.00
	Extra Bag Garbage	\$15.00
	Additional Empty BIN	Fees vary
	Extra Bag Yard Waste	\$15.00
	Steam Clean (1-6 yard BIN)	\$95.00
	Steam Clean (CART)	\$15.00
	Steam Clean (COMPACTOR/ROLL-OFF)	\$225.00
	Lock Set-up Admin Fee	\$25.00
	Lock Single Use Fee	\$5.00
	Lock Purchase Fee	\$20.00
	Lock Bar Bin Set-up Fee	\$75.00
	Overweight Charge Per Ton*	\$205.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
	64 Gal Split Cart Replacement Fee	\$90.00
	96 Gal Split Cart Replacement Fee	\$100.00
	Bin Repair/Replacement Fee**	Fees vary

*(Boxes exceeding 300lbs/yard)

**Fees vary by size up to \$1,200, not to exceed current replacement value.

CITY OF SAN RAFAEL
EXHIBIT C - SCHEDULE OF RATES

MULTI-FAMILY DWELLING REFUSE COLLECTION RATES

Rate increase: 7.15%
Effective date: 01/01/2023

RECURRING CHARGES	MFD CARTS, BINS, ROLL-OFFS		Collections per Week						Additional One Time Empty
	Garbage	1	2	3	4	5	6		
	20 gallon cart*	\$42.67	\$85.34	\$128.01	\$170.68	\$213.35	\$256.02	\$9.85	
	32 gallon cart	\$50.19	\$100.38	\$150.57	\$200.76	\$250.95	\$301.14	\$11.58	
	64 gallon cart	\$100.38	\$200.76	\$301.14	\$401.52	\$501.90	\$602.28	\$23.16	
	96 gallon cart	\$150.57	\$301.14	\$451.71	\$602.28	\$752.85	\$903.42	\$34.75	
	32 gallon - hill	\$56.85	\$113.70	\$170.55	\$227.40	\$284.25	\$341.10	\$13.12	
	64 gallon - hill	\$113.70	\$227.40	\$341.10	\$454.80	\$568.50	\$682.20	\$26.24	
	96 gallon - hill	\$170.55	\$341.10	\$511.65	\$682.20	\$852.75	\$1,023.30	\$39.36	
	1 yard bin	\$312.19	\$629.35	\$951.56	\$1,278.72	\$1,610.84	\$1,947.91	\$72.04	
	2 yard bin	\$476.35	\$1,091.92	\$1,652.84	\$2,223.68	\$2,804.53	\$3,395.30	\$109.93	
	3 yard bin	\$620.02	\$1,136.35	\$1,726.97	\$2,332.51	\$2,952.97	\$3,588.32	\$143.08	
	4 yard bin	\$884.52	\$1,630.17	\$2,474.99	\$3,339.90	\$4,147.25	\$5,129.39	\$204.12	
	5 yard bin	\$956.81	\$1,893.93	\$2,878.22	\$3,887.41	\$4,921.55	\$5,980.59	\$220.80	
	6 yard bin	\$1,121.41	\$2,272.73	\$3,453.87	\$4,664.91	\$5,905.86	\$7,176.65	\$258.79	
	10 yard roll-off	\$1,601.00	\$3,276.34	\$5,028.06	\$6,853.55	\$8,753.79	\$10,728.68	\$369.46	
	18 yard roll-off	\$2,875.56	\$5,885.72	\$9,030.28	\$12,309.31	\$15,722.82	\$19,270.86	\$663.59	
	20 yard roll-off	\$3,195.17	\$6,539.66	\$10,033.62	\$13,676.98	\$17,469.80	\$21,412.02	\$737.35	
	25 yard roll-off	\$4,469.53	\$9,148.27	\$13,486.24	\$18,383.07	\$23,480.98	\$28,779.77	\$1,031.43	
	Organics	1	2	3	4	5	6	Additional One Time Empty	
	Additional Organics Cart Rental (35 gallon cart) after 4 TOTAL carts per cart per month	\$2.68	\$5.36	\$8.04	\$10.72	\$13.40	\$16.08	NA	
	Additional Organics Cart Rental (64 gallon cart) after 4 TOTAL carts per cart per month.	\$2.68	\$5.36	\$8.04	\$10.72	\$13.40	\$16.08	NA	
	1 yard	\$144.67	\$289.34	\$434.01	\$578.68	\$723.35	\$868.02	\$33.39	
	2 yard	\$289.34	\$578.68	\$868.02	\$1,157.36	\$1,446.70	\$1,736.04	\$66.77	
	3 yard	\$434.01	\$868.02	\$1,302.03	\$1,736.04	\$2,170.05	\$2,604.06	\$100.16	
	Garbage Compactors (Per empty)								
	Roll-off Compactor Tipping fee per ton		\$137.60		Roll-off Compactor Hauling charge			\$309.28	
	Stationary FL (Per Compacted Yard)		\$119.50		Roll-off Compactor Special handling			Rates Vary	
Other Charges	Service	Fee		Details					
	Lock	\$25.00		Monthly fee					
	Box rental	Fees Vary		Minimum Bimonthly fee					
	Distance < 50ft	\$6.51		Monthly fee per cart, each way					
	Distance > 50ft	\$13.19		Monthly fee per cart, each way					

NOTE: Minimum service level is 32 gallons per unit or equivalent volume. Decrease to 20 gallon per unit is subject to company review and approval.

NOTE: Up to four (4) Organics carts provided at no additional charge. Additional carts may be rented for a nominal monthly fee.

NOTE: All container types and sizes may not be available depending on a variety of factors including safety, accessibility, and efficiency. Requests to be assessed and approved by Route Manager.

	MFD One Time Service Fees	Fee
ONE TIME SERVICE FEES	Return Fee - BIN	\$75.00
	Return Fee - CART -same day	\$10.00
	Return Fee - CART -off day	\$25.00
	Late Fee/Resume Service Fee	\$35.00
	Contamination (BIN) Per Yard	\$50.00
	Contamination (CART)	\$30.00
	Overload/Compaction (BIN)	\$60.00
	Overload/Compaction (CART)	\$25.00
	Additional Empty Bag	\$15.00
	Extra Bag Yard Waste	\$10.00
	Additional Empty Garbage	Fees vary
	Steam Clean (BIN)	\$95.00
	Steam Clean (CART)	\$15.00
	Steam Clean (COMPACTOR/ROLL-OFF)	\$225.00
	Lock Set-up Admin Fee	\$25.00
	Lock Single Use Fee	\$5.00
	Lock Purchase Fee	\$20.00
	Lock Bar Bin Set-up Fee	\$75.00
	Overweight Charge Per Ton*	\$205.00
	20 Gal Cart Replacement Fee	\$55.00
	32 Gal Cart Replacement Fee	\$60.00
	64 Gal Cart Replacement Fee	\$65.00
	96 Gal Cart Replacement Fee	\$75.00
	64 Gal Split Cart Replacement Fee	\$90.00
	96 Gal Split Cart Replacement Fee	\$100.00
	Bin Repair/Replacement Fee**	Fees vary by size up to

*(Boxes exceeding 300lbs/yard)

**Fees vary by size not to exceed current replacement value.

To: Cory Bytof, Sustainability Program Manager, City of San Rafael

From: Nate Forst and Garth Schultz, R3 Consulting Group

Date: November 23, 2022

Subject: 2022 Illegal Dumping Reduction Pilot Program Recap + Funding Memo

Illegal Dumping Pilot Program Overview

Background

Illegal Dumping Reduction Goal

The City of San Rafael initially established Illegal Dumping Pilot Programs (IDP) to support reduction of illegal dumping as a high priority area for City action, with a goal to achieve 50% reduction in illegal dumping by the end of 2025. Achieving this goal will require coordination between multiple City departments, addressing various factors related to illegal dumping.

2018-2019: Pilot Program Inception

The City conducted a pilot project in 2018-2019 that tested implementation of “bulky waste” collection and recycling events as a means of to reducing illegal dumping, with the results reported in the City of San Rafael Illegal Dumping Pilot Report (Bulky Waste Collection and Recycling Events). The 2018-2019 pilot project found that bulky waste collection events resulted in a noticeable reduction in illegal dumping. The report recommended further implementation of illegal dumping reduction actions in the City, including continuation of the bulky waste collection events (which proved successful) as well as testing of new programs to reduce the incidence of – and clean-up response to – illegal dumping in the City.

2020-2021: COVID and Continued Growth

Despite the unique challenges posed by the COVID-19 pandemic during 2020-2021, the following key trends were observed:

- Bulky waste drop-off events were increased from three (3) to six (6) days in 2021 as compared to 2020 resulting in 456 cubic yards of material collected (a 140% increase over 2020)¹.
- Free dumping vouchers for tenants of Bret Harte, Canal, and Gerstle Park decreased from 258 cubic yards of material to 197 cubic yards of material,
- Free dump coupons were offered to commercial property owners (and promoted by email), but zero participation was recorded two years in a row.

¹ The program reached more users and collect significantly more material in 2021 and did so at a cost per cubic yard collected that was significantly lower than the Multi-Family Voucher program. Bulky waste drop-off events recorded a cost per cubic yard of \$78, as compared with a cost of \$113 per cubic yard for the Multi-family voucher pilot.

2022 Pilot Program Results

In 2022, the IDP Team supported continued expansion of proven components of the IDP, initiated additional analyses and policy testing to investigate the root causes of illegal dumping, and developed a new pilot with funds awarded from a Mattress Recycling Council (MRC) grant.

Expanded Bulky Waste Drop-off Events:

Building on the success of 2021's bulky waste drop-off events which generated a significant "return on impact" of funds invested (as indicated above), the total number of bulky waste drop-off events was again doubled in 2022, increasing from six (6) to twelve (12) days. Additionally, the events were made a recurring monthly fixture at Pickleweed Park. This not only increased access to service for a test population of approximately 6,800 multifamily housing units, but it also provided the service in a consistent and ongoing capacity. As such, residents were better able to plan and prepare for the events. The impact of this expansion significant: through October 2022, 1,254 cubic yards of material were collected (a 175% increase over 2021 totals) *with two events yet to be held*. This outcome not only exceeded expectations, but it was also achieved at a cost per cubic yard of \$71, down from a cost of \$78 in 2021. This illustrates consistently increasing economies of scale as this program has grown² and further solidifies it as the key value driver among pilot programs attempted thus far by the City.

Free Multifamily Dwelling (MFD) On-Call Bulky Item Pickups:

While single-family homeowners in San Rafael receive trash collection for bulky items (such as mattresses) via on-call pickup services twice a year, service for bulky items is not offered to MFD units in the City. Given the potential connection between this lack of service and illegal dumping in the area, the IDP Team developed multiple potential policy mechanisms to address the proliferation of casual dumping near MFD in San Rafael with the intention of improving service at MFD in the City for all types of waste in a convenient and equitable manner. Potential policy changes identified included:

- Requiring via specific ordinance language that MFD offer bulky item collection.
- Specifying fines directed to properties for illegal dumping within one (1) block of the MFD.
- Requiring training and education regarding bulky item disposal to tenants within 15 days of move in and annually thereafter.
- Provision of vouchers to each MFD unit in the City for free bulky item disposal at the transfer station.
- Offering free on-call pickups of bulky items for MFD properties of up to the equivalent of one large item or mattress per unit.

Given these options, the IDP Team chose to develop a new pilot aimed specifically at reducing illegal dumping generation via a "free on-call bulky item pickup program." This was designed to address an essential barrier for MFD residents in San Rafael - lack of transportation to bulky item disposal and collection opportunities. Even with cost incentives in place to encourage proper disposal, without transportation to facilities and drop-off events many residents may be prevented from accessing disposal options, leading to unwanted dumping. With support from its consultants, the City secured a grant from the Mattress Recycling Council (MRC) for \$24,000 that facilitated the opportunity for seven (7) properties of various sizes to participate, each with access to two (2) pickups per month over a six-month pilot period.

² The cost per cubic yard for this pilot has decreased from \$86 for three events in 2020, to \$78 for six events in 2021.

Per MSS, through October 2022 this pilot recorded collection of 95 cubic yards³ of bulky items from tenants at MFD locations throughout the City. Overall, participation in the “free on-call bulky item pickup pilot” fell short of IDP Team’s expectations for total material collected. Three key issues were the primary drivers behind this:

- Lack of space at MFD’s for tenants to store materials in anticipation of pickups;
- Reliance on property managers for event promotion rather than direct outreach to tenants; and
- Less demand for pickup at some complexes (though dumping in the vicinity remains prevalent).

MFD Overage Analysis:

Building on original research and analysis begun 2021, the IDP Team continued development of a comprehensive evaluation of MFD service levels throughout San Rafael to 1) ascertain whether adequate service levels were being met across the City, and 2) determine whether MFD service levels may potentially be linked to instances of illegal dumping throughout the City. To achieve this, the City and its consultants collaborated with MSS to complete an analysis of MFD units in San Rafael by service level, and total occurrences of collection container overages. Using Geographic Information System (GIS) tools, this data was then overlaid with the City’s online Illegal Dumping Dashboard to identify potential overlap of container overages by location to determine if there was a correlation with illegal dumping activity “hot spots” tracked on the Dashboard. This analysis yielded the following information:

- A clear correlation between container overage occurrences⁴ and illegal dumping, including when looking at the time lapse for both month by month;
- Significant correlation between properties that do not meet the current 32 gallon per unit service level minimum, overage occurrences, and the quantity of overage amounts.⁵ ; and
- Moderate correlation between properties that do not meet the current 32 gallon per unit service level minimum, and illegal dumping incidents.

In 2022, overall IDP costs are estimated to come in roughly at budget.⁶ Should there be any unspent funds, if the Council wishes they may be applied (in whole or in part) to continuation of the pilot program in 2023. City staff and R3 recommend rolling any unspent funds forward to implementation of the following 2023 pilot program.

2023 Pilot Program and Funding

The City has an opportunity to maintain the success of the proven bulky waste drop off events at the level and consistency achieved in 2022, while supporting further policy analysis related to bulky item pickup service and “right-sizing” service levels at MFD. This could be accomplished via utilization of any unspent 2022 funds, combined use of Zero Waste Marin grant funds, and funding via the 2023 rates of \$100,000 – an amount similar to what was supported in the 2022 rates.

³ Collection data provided for ten of twelve events. MSS indicated that data from two additional pick-ups was still pending.

⁴ An overage occurrence reflects a recorded even in which disposed material has exceeded the capacity of a container.

⁵ Based on estimates provided by MSS drivers.

⁶ Estimated November 16, 2022, based on program performance, costs to date and anticipated costs for final two months of the program.

R3 Consulting Group, Inc. (R3) has separately calculated the 2023 solid waste rate adjustment for San Rafael based on the Franchise Agreement between the City and Marin Sanitary Service (MSS), and the City may choose to continue to fund \$100,000 in approximate MSS and City costs for a 2023 Illegal Dumping Reduction Pilot Program.

Overview of Proposed 2023 Illegal Dumping Reduction Pilot Program

Building on 2022 data and lessons learned, the project team would implement the following:

- **Maintain Bulky Waste Drop-off Events:** Support continued reduction of illegal dumping from multifamily residential properties by keeping “bulky waste drop-off events” a consistent monthly event at Pickleweed Park. Prior to investing in further expansion, R3 recommends maintaining focus on the current pilot area to make a clear determination on the pilot’s impact on localized dumping relative to baseline measures. This would allow for continued growth in local participation as awareness of the events builds on 2022’s dramatic increase in material collected, while also further supporting anticipated economies of scale in terms of reduced cost per cubic yard of material collected. In partnership with the Conservation Corps North Bay, the City anticipates continued support for twelve events - maintaining access to service for a population of approximately 6,800 housing units. Facilitating this program would be the key use of funds in 2023.
- **Further Policy Analysis focused on MFD Bulky Item Pickups and Right-sizing Service Levels:** Building on lessons learned from 2022 pilot efforts, additional analysis would be directed towards establishing a more equitable approach to bulky item pickups in San Rafael. Efforts would focus on requiring MFD’s to offer bulky item collection (or vouchers) via a rate structure that potentially redirects a portion of funds (currently allocated to single family bulky waste pickups) towards MFD pickups. A basic associated policy cost analysis will be undertaken as well. In parallel, findings from 2022 analyses on MFD service levels would be further leveraged to explore and recommend potential scenarios related to increased collection service levels at MFD units that hit identified overage thresholds. Enforcement strategies and proper incentives for MFD property managers will be considered as part of the assessment.

Partnership with Marin Sanitary Service

MSS has been briefed on the details of the proposal to increase rates to fund implementation of the Pilot Program and has expressed its willingness to be the City’s operational partner, and MSS supports the rate funding of Pilot Program costs. R3 will also assist in evaluating programmatic data and reports and participate in meetings with the City and the City’s consultants and provide input on pilot design and cost analysis.

Reporting and Next Steps for 2023

After completion, the project team will confer regarding Pilot Program results, anticipated in the Fall of 2023. The City will then present the results to Council and make recommendations about next steps to continue progress in 2024 to reduce illegal dumping, including potential for citywide implementation of the “bulky waste drop-off events” and any potential policy solutions related to MFD container overages.

Pilot Program Rate Impact and Draft Budget

The City has an opportunity to set the 2023 solid waste rates to secure funding for the Pilot Program as part of the 2022 rate hearing.

Draft Pilot Program Budget

A draft budget for the Pilot Program, at an anticipated total expense of \$127,780 is provided in Table 1. Funding for the proposed Pilot Program budget is based on \$100,000 in proposed new funds and \$27,780 in Zero Waste Grant Funding to the City from Zero Waste Marin.

Table 1: Proposed 2023 Illegal Dumping Reduction Pilot Program Budget

	2023 Budget
Implementation and Ongoing Coordination	
Operations & Financial Analysis and Coordination with City Program (R3)	\$ 5,000
Subtotal	\$ 5,000
Monthly Debris Box Days (12 Total Events)	
Conservation Corps (Monthly Events at Pickleweed Park)	\$ 18,000
Design, outreach and collateral (GIS)	\$ 30,000
Debris Box Rental and Bulky Waste Disposal	\$ 69,780
Subtotal	\$ 117,780
Environmental Design Mini Grants	
Mini-grants Funding	\$ 5,000
Subtotal	\$ 5,000
Grand Total	\$ 127,780

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING BEFORE THE SAN RAFAEL CITY COUNCIL

You are invited to attend the City Council public hearing on the following consideration to approve maximum rates allowed by Marin Sanitary Service for refuse and recycling collection services.

DATE/TIME:

Monday, December 5, 2022, at 7:00 p.m.

LOCATION:

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

VIRTUAL PARTICIPATION:

COVID-19 ADVISORY NOTICE: Consistent with State of California and County of Marin health orders, the San Rafael City Council has determined that the following hearing will be physically open to the public, but that the public may participate either by attending the meeting in person or by teleconference by visiting <https://www.cityofsanrafael.org/departments/public-meetings/> for the call-in phone number and meeting ID listed on the agenda (or using Zoom app to connect to this meeting ID).

PURPOSE:

To consider a request by Marin Sanitary Service for a rate increase of 7.1% for refuse and recycling collection and services and adoption of a Resolution allowing for maximum rates to be collected by Marin Sanitary Service for the year 2023.

WHAT WILL HAPPEN:

Staff will provide a presentation, members of the public can provide comments/questions, and the City Council will consider all public testimony, deliberate, and determine how to proceed with the recommendation provided by staff.

IF YOU CANNOT ATTEND:

You may submit comments regarding the proposed item by 4:00 p.m. the day of the hearing to Lindsay Lara, City Clerk, City of San Rafael, 1400 Fifth Avenue, San Rafael, CA 94901, or by email to city.clerk@cityofsanrafael.org. You can also hand deliver a letter prior to the public hearing. The City Clerk's office will forward your comments to the City Council and publish correspondence received to the agenda online. Comments received after 4:00 p.m. will be forwarded to the City Council and posted online the following day.

FOR MORE INFORMATION:

You may contact Cory Bytof, Sustainability Program Manager at (415) 485-3407 or cory.bytof@cityofsanrafael.org. Office hours are Monday through Friday, 8:30 a.m. to 5:00 p.m. You can also view the staff report after 4:00 p.m. on the Friday before the meeting at <https://www.cityofsanrafael.org/city-council-meetings/>.

/s/ Lindsay Lara
Lindsay Lara
City Clerk
City of San Rafael

To be published in the Marin IJ twice: November 25 & November 30



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 3.e

Meeting Date: December 5, 2022

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Economic Development

Prepared by: Micah Hinkle
Economic Development Director

Victoria Lim
Senior Management Analyst

City Manager Approval: _____

TOPIC: DOWNTOWN BUSINESS IMPROVEMENT DISTRICT (BID) ASSESSMENT ANNUAL RENEWAL

SUBJECT: RESOLUTION CONFIRMING THE 2022 ANNUAL REPORT FOR THE DOWNTOWN SAN RAFAEL BUSINESS IMPROVEMENT DISTRICT AND LEVY OF ASSESSMENTS FOR CALENDAR YEAR 2023

RECOMMENDATION:

Adopt the resolution confirming the 2022 Annual Report for the Downtown San Rafael Business Improvement District and levy of annual assessments for calendar year 2023.

BACKGROUND:

Section 36500 of the California Streets and Highways Code allows for the creation of a business improvement district (BID) within a municipality, whereby businesses within the district self-assess an annual fee in order to pay for improvements and activities which benefit the overall business district. The intent of the state law is to provide a funding mechanism for business districts to promote economic vitality. San Rafael Municipal Code section 10.09.080 requires a report to be prepared annually for upcoming assessments.

In 1979, businesses in Downtown San Rafael first set up a business district. This original district included approximately 125 businesses along Fourth Street between Lincoln Avenue and E Street. In 2013, the City Council voted to replace it with a larger district of approximately 700 businesses along Fourth Street. The expanded district includes the West End and some side streets, as well as non-ground floor tenants and other tenants not included in the original BID.

For 2022, the [BID Advisory Board](#) focused on supporting downtown businesses as they emerged from the COVID-19 pandemic. The BID Board welcomed a new Director – Sarah Tipple – this year, and the BID has achieved many notable accomplishments as highlighted in its Annual Report, including a website redesign, various initiatives and partnerships to promote foot traffic downtown, and actively promoting Downtown through social media, the BID website, marketing campaigns, and email blasts.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

Downtown San Rafael is coming back to life after some slow COVID years. The BID hosted numerous events, including two successful and profitable events: May Madness and the Hops and Vine Stroll. The BID Board continued to produce the 'Dining Under the Lights' (DUTL) outdoor dining event on Thursday evenings (late May through September 2022) and the West End Block Parties on Thursday and Friday evenings (late May – early October 2022). The BID Board also hosted various events such as BID Night at the Pacifics, the Annual BID Mixer, Trick or Treat on Fourth Street, Dia De Los Muertos Altar Displays, an Elf Hunt, and the Parade of Lights and Winter Wonderland on Shop Small Saturday. The BID helped to promote other Downtown events, including 2nd Friday Art Walks, San Rafael PorchFest, Mill Valley Film Festival, Dia De Los Muertos Car Procession, San Rafael Lighted Boat Parade, Heads Up Carnival at Davidson, Doc Lands Film Festival, State of the City Dinner, Youth in Arts C Street Celebration, and the Sunset Criterium.

The BID established partnerships with Embassy Suites and the California Film Institute, using QR code technology and ticket incentives to drive foot traffic Downtown. Other innovative initiatives include developing a walking tour on a mobile app that the BID hopes to have enough funding in the future to launch. The BID also created a "smART" Train Tour Map highlighting San Rafael's many art organizations that the BID likewise hopes to implement in the future. In partnership with City staff, the BID contributed to the development and implementation of the outdoor dining Streetaries Program that was approved by Council in October 2022. The BID also participated in the process of getting new trash cans downtown, which has added to its beautification efforts.

Financially, the BID is facing challenges. BID assessments were lower than usual in 2022 and costs increased. Proceeds from BID assessments decreased to \$61,648 in 2022, approximately 25% lower than typical assessment revenue of \$83,000. Payroll costs, as well as higher costs due to inflation, increased overall expenses for the year. The BID projects a loss of approximately \$18,000 for 2022, leaving the BID with a cash balance of \$43,500.

For calendar year 2023, the annual assessment levied on businesses will not change and will be the same as prior years. See Exhibit B to the Annual Report. The BID states in its Annual Report that it plans to continue to host similar events to last year, plus a few new events. The two profitable events hosted by the BID are May Madness and Hops and Vines Stroll. The BID projects that costs will remain high and that the amounts collected through BID assessments will remain similar to 2022. As a result, without additional funding, the BID may need to postpone some of its initiatives. The BID projects a loss of approximately \$16,000 for 2023, leaving the BID with a cash balance of \$27,500 at the end of 2023. This trend is not sustainable without changes.

Uncollected revenue from businesses that paid the BID assessment in 2021 but did not renew their business license for 2022 was \$9,825. This amount could be businesses that went out of business but never notified the City, or businesses that are operational but simply did not pay their BID assessment. The BID has not included this amount in its annual income.

Staff has recommended that the BID Board plan ahead for 2023 events, prioritize high impact and low cost events, minimize low impact and high cost events, and focus on planning events that generate revenue so that the BID can become independent and financially sustainable. Planning ahead and being selective for its event roster in 2023 will also allow the BID to submit event applications 90 days in advance as per City requirements.

Staff has also recommended to the BID Board to attempt to cut costs in order to reduce its dependence on cash reserves and focus on long-term sustainability. In search of operational synergies, the BID has

partnered with the Chamber of Commerce and now has its office co-located inside the Chamber of Commerce office in San Rafael.

Also, importantly, the BID is participating in the City's Economic Development Strategic Plan which is underway and will provide an opportunity to review business priorities downtown and throughout the City. There may be new synergies with the BID and Chamber of Commerce as that plan develops and implementation begins.

ANALYSIS

BID Renewal Process

Per State law, to renew the annual assessment, the City Council must first adopt a Resolution of Intention to Levy an Annual Assessment and set a public hearing for a future date. The method of calculating the amount of the assessment on each business is established by San Rafael Municipal Code Section [10.09.050](#) and varies depending upon the type of business and whether the business is located in the Standard BID Zone or the Premium BID Zone shown in Exhibit B of Attachment 2.

On November 21, 2022, the City Council adopted a Resolution of Intention to Levy an Annual Assessment. This resolution was intended to notify the public of the process, approve the BID annual report reviewing past BID Board accomplishments, and set the date for a public hearing.

Tonight's meeting is to hold the Public Hearing to receive input from the public on the annual assessment for the BID and to confirm the 2022 Annual Report and levy of assessments for the upcoming year. Oral or written protests may be made by interested persons. If written protests received represent fifty percent (50%) or more of the total assessments in the entire BID, no further proceedings to amend the BID can occur. New proceedings cannot be undertaken for a period of at least a year.

COMMUNITY OUTREACH:

A notice of public hearing on the Resolution of Intention to levy the annual assessment for calendar year 2023 was published in the Marin Independent Journal on November 25, 2022. A copy is included in Attachment 3. The BID has notified its members of the annual renewal process through its member communications including the BID e-newsletter, notifications on the BID website, and through agenda items at the monthly BID board meeting.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

OPTIONS:

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

- 1) Adopt the resolution as presented confirming the 2022 Annual Report and the annual assessments for 2023.
- 2) Adopt the resolution with modifications.
- 3) Determine that 50% or more protest has been filed and abandon assessment proceedings for a minimum of one year from the date of the majority finding and decline adoption of the resolution.

RECOMMENDED ACTION:

Adopt the resolution confirming the 2022 Annual Report for the Downtown San Rafael Business Improvement District and levy of annual assessments for calendar year 2023.

ATTACHMENTS:

1. Resolution
2. BID 2022 Annual Report, including:
 - A. Exhibit A: BID Map
 - B. Exhibit B: BID 2023 Assessment Formula
 - C. Exhibit C: BID Budget
 - D. Exhibit D: Memo – BID Financial Summary
3. Notice of Public Hearing on Resolution of Intention

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL CONFIRMING THE 2022 ANNUAL REPORT FOR THE DOWNTOWN SAN RAFAEL BUSINESS IMPROVEMENT DISTRICT AND LEVY OF ASSESSMENTS FOR CALENDAR YEAR 2023

WHEREAS, California Streets and Highways Code Sections 36500 et seq, authorize cities to establish parking and business improvement districts for the purpose of promoting economic revitalization and physical maintenance of business areas, to create jobs, attract new business and prevent erosion of the new business district; and

WHEREAS, the Downtown San Rafael Business Improvement District ("BID") was established in 2013 to amend the existing Parking and Business Improvements District instituted in 1979 in the commercial area on and around the Fourth Street corridor in San Rafael; and

WHEREAS, pursuant to San Rafael Municipal Code Chapter 10.09 the BID's Advisory Board submitted to the City a "BID 2022 Annual Report", which is on file with the City Clerk; on November 21, 2022, the City Council by resolution approved the BID 2022 Annual Report, indicating the Council's intention to levy assessments for calendar year 2023, and setting a public hearing thereon for December 5, 2022; and

WHEREAS, pursuant to Streets and Highways Code Section 36535, following the public hearing, the City Council may adopt a resolution confirming the report as originally filed or as modified by the Council, and the adoption of the resolution shall constitute the levy of an assessment for the year referred to in the report; and

WHEREAS, the City Council held the required public hearing on December 5, 2022 to receive testimony and protests concerning the BID 2022 Annual Report and the proposed levy of assessments for calendar year 2023 described therein; and

WHEREAS, a majority protest of the proposed assessments was not received.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby confirms the BID 2022 Annual Report. Adoption of this resolution shall constitute confirmation of the BID 2022 Annual Report and approval of the levy of assessments described in the BID 2022 Annual Report for the 2023 calendar year.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a meeting of the City Council of said City held on Monday, the 5th of December 2022, by the following vote, to wit:

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

LINDSAY LARA, City Clerk

2022 Annual Report



BID BOARD OF DIRECTORS 2022/23

Interim President
Jed Greene,
Five Corners Group

Vice President
Adam Dawson,
Mike's Bikes

Jeff Brusati,
T & B Sports

Bishlam & Amy Bullock,
Salon B Style Lab

Elisabeth Setten –
Art Works Downtown

Morgan Schaufli,
Youth in Arts

Your name here!

Secretary
Tobi Lessem,
Bodywise Massage

Social Media Chair
Erika Bowker,
Pleasures of the Heart

Treasurer
TBD

Terrance Thornton,
San Rafael Martial Arts

Committee Members:
Jaime Ortiz,
Bank of Marin
Ryan Spencer,
Libation Taproom
Meg Reilly,
Marin Society of the Arts

Dear Fellow BID Members,

First, I want to thank Eda Lochte and Jaime Ortiz for their years of service to the Business Improvement District. The BID was truly transformed into an organization that the community could count on and be proud of.

This year, we found a new Executive Director in Sarah Tipple. She has been a wonderful addition and has made an immediate, positive impact for the BID.

As things slowly get back to normal this year, we have brought back traditional events, like the May Madness Car Show, while also assisting with the implementation of new ideas, like the permanent Streetaries program, the Friday Night Block Party, and the Hops and Vines Stroll.

In 2023, we plan to build on our prior success while also developing new ideas to improve our downtown and our community.

Please visit DowntownSanRafael.org to see all the BID is doing, to update your directory listing, and continue to be involved.

Jed Greene, President

Development, Organization, and Design

- **ARPA Fund Proposal** – The BID created a proposal requesting \$70,000 of the ARPA Funds to go toward the following BID Projects: Marketing & Promotion, Event Planning & Production, Beautification, Walking Tour App, Expansion of Second Friday Art Walks, Community Public Art Projects. The request is pending.
- **Downtown San Rafael Arts District Collaboration** – The BID's DSRAD committee advocated for ARPA funding and California Arts Council support to subsidize multiple creative placemaking projects aimed at revitalizing and enhancing downtown San Rafael. DSRAD, in concert with their fellow Cultural Arts Districts, was successful in reactivating a direct funding structure from the California Arts Council and expects disbursement in 2023.
- **Fundraising & Event Management** – Through successful events and the BID being able to do most event tasks in-house, expenses were decreased, and our bottom line was increased with two signature events, May Madness, and the Hops & Vines Stroll.
- **Beautification** – Worked with the City's new Volunteer coordinator to discuss future landscaping projects for volunteers to help beautify our Downtown.
- **New Trashcans in Downtown** – Last year, the BID was on the selection and advocacy team to get new trashcans in Downtown San Rafael. They arrived this year and their sleek appearance really lifts Downtown San Rafael's aesthetics.
- **Welcome Packets** – The BID created an info sheet of what the BID is, does, and why it exists to give new Downtown Businesses insight into who we are and what we do.
- **SR Chamber Partnership** – The BID now has an office located at the San Rafael Chamber, which is a great path toward stronger collaborations and networking opportunities.
- **Member emails, newsletters, and updates** – Monthly Newsletters included news on City updates, fellow business events/openings, and events. Also, continuously updated members on DPW activity on their blocks.
- **Hands-on help** – Executive Director is actively available by phone and in person to meet with and discuss member activities and concerns.
- **Streetary Program** – The BID was included in the development of this program and advocated for more business involvement, affordability, and frequent communication during the rollout.
- **City partnerships** – worked with City government and departments including Economic Development, Public Works, Parking, Parks & Recreation, and SRPD.

Marketing & Promotions

- **Website updates** – Gave DowntownSanRafel.org site a facelift by updating the events page to include all ongoing events, the News page with all news from members and city updates, added useful San Rafael Business resources to the About Downtown Page, and more.

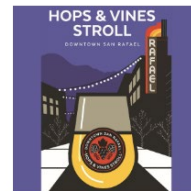
Upcoming Downtown San Rafael Events



San Rafael PorchFest
September 18, 2022
[Learn more.](#)



San Rafael BID Annual Meeting & Mixer
Liberation Taproom
September 22, 2022
[Learn more.](#)



Hops & Vines Stroll
September 24, 2022
[Learn more.](#)



Mill Valley Film Festival
October 6-16, 2022
[Learn more.](#)



West End Culture Crawl
October 8, 2022
[Learn more.](#)



Dia De los Muertos Car Procession
October 22, 2022
[Learn more.](#)

- **Walking Tour Mobile App** - Developed a user-friendly Walking Tour of Downtown San Rafael on the Distrx Mobile App, to highlight historical and cultural points of interest throughout the downtown. Funding for long-term implementation pending approval.
- **Designed a smART Train Tour Program** – Created an interactive map to emphasize multiple artistic institutions easily accessed along the smART train route, with San Rafael as the center point. Meetings to further develop the project are expected in fall 2022.
- **Partnered with CFI (California Film Institute) and Mill Valley Film Festival** – Created a “Ticket Stub Incentive” Program to get the ticket holders and filmmakers inside our Downtown Businesses. The goal is to promote foot traffic to our BID District to support local small businesses.
- **Embassy Suites Partnership** – The BID partnered with the Embassy Suites in San Rafael to generate more foot traffic Downtown by adding a QR code linking to our events page to their guest's “What to Do” guide, giving them \$5 off to Hops event, and discussing a possible punch card list of deals and discounts that downtown businesses can offer to their guests.
- **Social media director** – Board member Erika Bowker actively posts to 5,600 followers on Instagram and Facebook and multiplies effects by engaging with Downtown businesses' social media and email campaigns.
- **Shop Local during the Holiday Season** - print and digital ad campaigns for the holiday season and free parking-

Event Success

In 2022, we brought back many popular events after the 2-year hiatus due to the pandemic and were also able to raise money for the BID in the process.

- **Promoted ALL Downtown Events/Activities** – To keep members and the community informed on all things Downtown, the BID promoted all events in or near Downtown on our events page & Newsletters, not just BID-produced events, including 2nd Friday Art Walks, San Rafael PorchFest, Mill Valley Film Festival, Dia De Los Muertos Car Procession, San Rafael Lighted Boat Parade, Heads Up Carnival at Davidson, Doc Lands Film Festival, State of the City Dinner, Youth in Arts C Street Celebration, and the Sunset Criterium. These events brought many visitors to our Downtown.
- **Dining Under the Lights** – The BID continued to support the successful Dining Under the Lights Program. The block party feel of having several different blocks closed throughout downtown gave businesses the choice to be involved by booking live bands or bringing their tables into the street for alfresco dining.
- **West End Block Party** – West End businesses built a successful Thursday and Friday night block party, which began under Dining Under the Lights, by booking great bands, creating a welcoming beverage garden and dining area, and having large neighborhood support. In partnership with the City, the BID supported the vibrancy that this event brought to Downtown and advocated to help the organizers continue it as a two-day event, rather than shortening it to a one day.
- **Clean & Green** – Every year on Earth Day, the BID and Cory Bytof with the City of San Rafael coordinate a day of trash clean-up, graffiti removal, polishing street poles, and landscape weeding and mulching. This year, the event had more volunteers than ever, almost 40 people, including staff from Bio Marin, SRPD, and many of our very own BID Board Members.
- **May Madness** – After a 2-year hiatus, May Madness was back and ready to Roll in 2022. The BID's volunteer event committee and Rick with Gold Rush Jewelers worked tirelessly to bring thousands of people downtown to enjoy over 200 hot rods, food, beverages, and the Classic Car Parade. It was a day to remember. The BID made a net profit of \$6,229.84.
- **Dia de los Muertos window displays & Car procession** – Downtown merchants will again present window altars for Day of the Dead in collaboration with Marin Multicultural Center, San Rafael Dia de los Muertos, City Rec Dept. and artists.

Complete List of BID Events in 2022

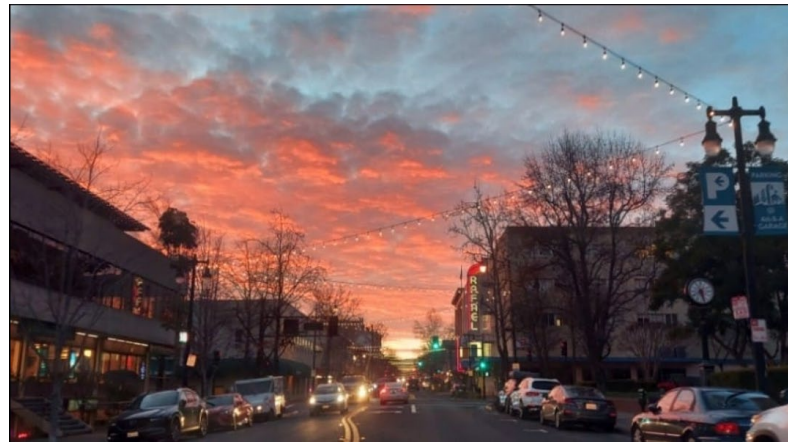
- **Clean & Green Day** (Fri. April 22, Earth Day)
- **Dining Under The Lights featuring Live Music, Outdoor Dining, and Kids Activities** (Thurs. end of May through Sept)
- **Friday Night Block Party in the West End** (Fri. end of May through Oct)
- **32nd Annual May Madness** (Sat. May 7)
- **Downtown BID Night at the Pacifics** (June 21)
- **Annual San Rafael BID Mixer** (Thur. Sept. 22)
- **2nd Annual Hops & Vines Stroll** (Sat. Sept 24)
- **4th Annual West End Culture Crawl** (Sat. Oct. 8)
- **34th Annual Trick or Treat on 4th Street & Pet Costume Contest** (Sat. Oct. 29)
- **Dia De Los Muertos Alter Displays** (thru Nov 5)
- **Elf Hunt** (Nov-Dec)
- **San Rafael Parade of Lights & Winterwonderland on Shop Small Saturday** (Nov 26)



Downtown San Rafael BID 2023 Preliminary Work Plan

Future Marketing, Development, Events, and Operations

- **If the ARPA request is approved, funding will go toward:** Marketing & Promotion, Event Planning & Production, Beautification, Walking Tour App, Expansion of Second Friday Art Walks, & Community Public Art Projects.
- **Walking Tour App-** Launch the Walking Tour App of Downtown San Rafael with ARPA funds.
- **Encourage more family-friendly events and fundraisers** – Work closely with local family groups to provide the much-needed niche of more family activities in Downtown.
- **Engage with the local College Students** – Create a Back to School Night or program, where students can visit our website and see all the places in Downtown where their student ID can get them discounts or deals.
- **Farmer's Market** – Rebuild the relationship with AIM to bring back the Thursday Night Farmer's Market to Fourth Street.
- **Makers Markets** – Meet with other maker market producers to bring their event to our downtown on a Thursday Night.
- **smART Train Tour Program** – Further develop and launch the interactive map of art stops along the SMART train route with our Downtown at the Heart.
- **Outdoor Movie Night** – Work with Park & Recs to bring their successful outdoor movie night in the park program to our Downtown.
- **Social Media Manager Contractor** - The BID is interested in hiring a part-time social media contractor to promote and showcase a different Downtown Business each day on IG & FB. Our current Social Media Director will still promote our events.
- **Add board members, committee members, and volunteers** – Actively recruit committee members and engage prospective board members to build an inclusive environment for greater equity and diversity. If you are interested, please contact us!
- **Communicate with members/community outreach** – Continue engagement via website, email, newsletters, social media, marketing, advertising, & in person
- **Beautification & Art** – Work with the new City Library & Rec Director to look at public art opportunities.
- **Landscaping upgrades** - Hardscape landscaping updates to intersections via volunteer coordination.
- **Raise BID funding** – Explore supplemental funding sources through more financially lucrative events, matching funds from the City, and more.



- **Scavenger Hunts** – If funding allows, the Walking Tour App can be used to create “Apptivities” and we can create scavenger hunts within the businesses. If successful, we’d like to create one for each season.
- **Explore partnerships with all local Schools** – Create more collaborative relationships between Dominican and other SR Schools to expand BID’s reach to create added visibility and excitement for Downtown.
- **Partnership & Collaboration** – Continue to align the BID with the DSRAD, the SR Chamber, Pacifics, Embassy Suites, CFI, the City, SMART, SRPD, & more.
- **Resume Dining Under the Lights & The Friday Block Party in the West End** – Refine the program in partnership with the City to create an ongoing Summer outdoor program.
- **Events:** The BID has committed to continue May Madness, Hops & Vines, and all other events produced in 2022.

I want to thank this AMAZING BID Board for their passion, commitment, experience, and support as we all work to continue making Downtown San Rafael a fantastic place to work and live.



I would also like to thank all the Business owners and staff that have welcomed me as their Director and that have taken the time to speak with me about their constructive ideas and experience on 4th Street. I am passionate about Downtown San Rafael and the people and businesses that thrive here! Please don’t hesitate to reach out to me. I look forward to hearing from you!

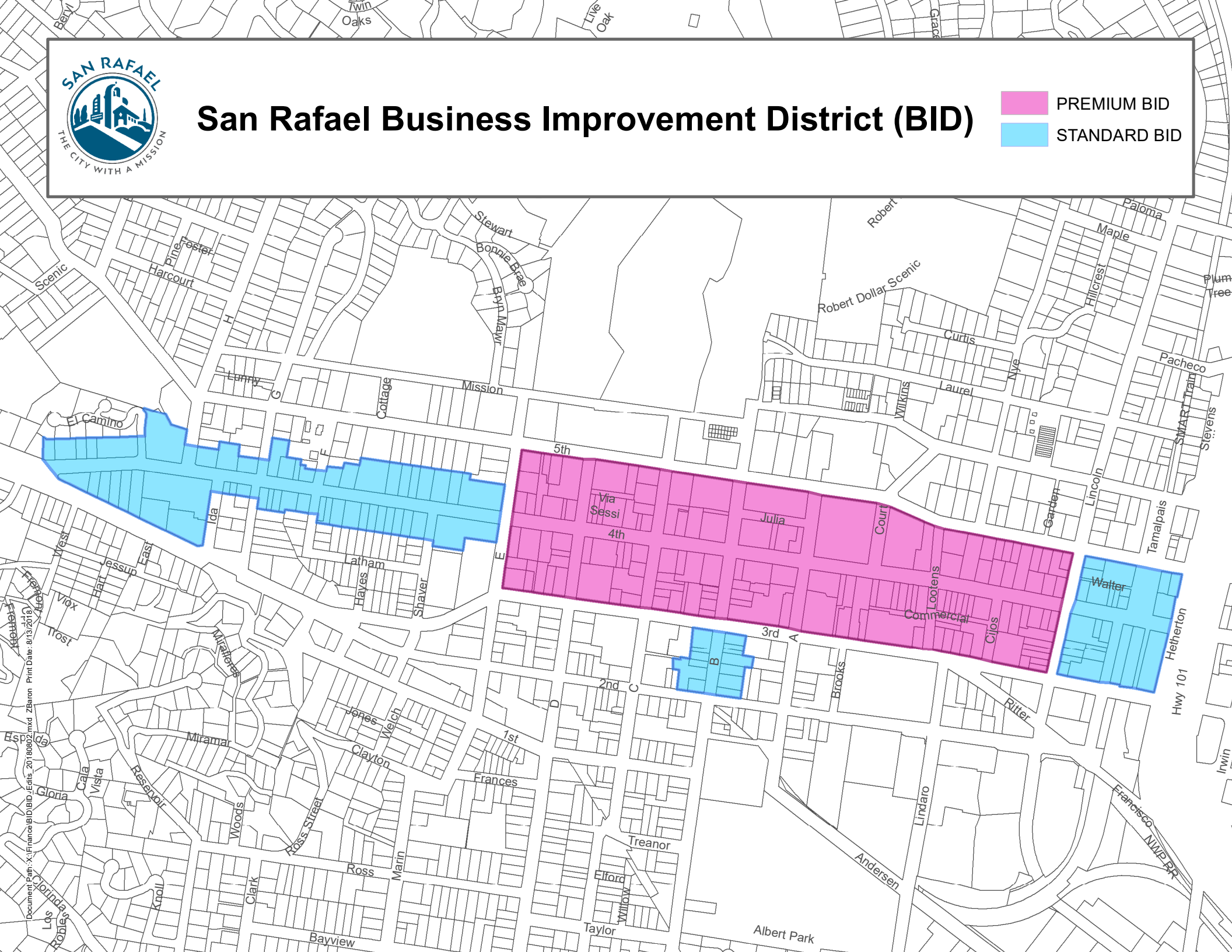
-Sarah Tipple, Executive Director

SHOP LOCAL★EAT LOCAL
SUPPORT SAN RAFAEL DowntownSanRafael.org



San Rafael Business Improvement District (BID)

-  PREMIUM BID
-  STANDARD BID



2023 BID Assessment Formula

Exhibit B

Type of Business	Standard	Premium
Retail on the Ground Floor, Restaurant, Personal Services on the Ground Floor	\$175	\$225
Retail on the Ground Floor, Restaurant, Personal Services on Ground Floor with Less than \$100,000 in Gross Receipts	\$150	\$175
Offices, Professional, Personal Services, not on Ground Floor, Retail not on Ground Floor	\$75	\$100
Personal Services Sole Practitioner	\$25	\$50
Non-Profit Organization and Fine Artists	\$50	\$50
Financial Institution	\$375	\$425

San Rafael Downtown BID Budget

Exhibit C

	2021 Year End Fund Balance	\$61,687	2022 Year End Fund Balance	\$43,531
Revenues	2022 Programs	Year 2022 Estimated Year End	2023 Programs	Year 2023 Proposed Budget
	BID Assessments	\$61,648	BID Assessments	\$60,000
	Event Income	\$50,887	Event Income	\$50,000
Total Operating Income		\$112,535	\$110,000	
Expenses				
Events	May Madness	(\$19,290)	May Madness	(\$20,000)
	Hops and Vines	(\$9,767)	Other Events/Costs:	(\$32,000)
	Culture Crawl	(\$926)	Hops and Vines	
	Trick or Treat	(\$450)	Culture Crawl	
	Shop Small & Winter Fest	(\$2,500)	Trick or Treat	
	Clean and Green Day	\$0	Winter Wonderland	
			Clean and Green Day	
	Event Staffing	(\$16,475)	Mixers	
			August Hot Nights	
			West End Celebration	
			Event Staffing	
Events subtotal		(\$49,408)	(\$52,000)	
Initiatives	Thursday Nights/DUTL (includes BID staff costs)	(\$18,217)	Thursday Nights/DUTL (includes BID staff costs)	(\$15,000)
	West End Block Party (includes BID staff costs)	(\$8,237)	West End Block Party (includes BID staff costs)	(\$9,000)
			Beautification	
Initiatives subtotal		(\$26,454)	(\$24,000)	
Marketing & Promotions	Advertising/Marketing	(\$2,300)	Advertising/Marketing	(\$2,500)
	Website Maintenance	(\$1,500)	Website Maintenance	(\$2,000)
	Member Communication/Mixer	(\$1,962)	BID Member Communication	(\$1,000)
			Social Media	(\$1,000)
Marketing & Promotions Subtotal		(\$5,762)	(\$6,500)	
Operating Expenses	Staffing	(\$21,966)	Staffing	(\$22,000)
	Insurance	(\$4,900)	Insurance	(\$4,900)
	Office Expense (supplies, communications, etc.)	(\$3,443)	Office Expense (supplies, communications, etc.)	(\$3,500)
	Professional Fees	(\$1,500)	Professional Fees	(\$3,000)
	Consultant	(\$7,965)	Taxes and Payroll Costs	(\$5,300)
	Taxes and Payroll Costs	(\$5,292)	Rent	(\$4,800)
	Rent	(\$4,000)		
Operating Expenses Subtotal		(\$49,066)	(\$43,500)	
Total Expenses		(\$130,691)	(\$126,000)	
Net Profit/(Loss)		(\$18,156)		(\$16,000)
Projected 2022 Ending Fund Balance/Carryover to 2023		\$43,531	2023 Ending Fund Balance	\$27,531

Memorandum

To: San Rafael City Council

From: Jed Greene, President
San Rafael Business Improvement District

Date: October 24, 2022

Re: San Rafael Business Improvement District Financial Summary

This memorandum highlights the significant 2022 financial activity of the San Rafael Business Improvement District (BID) and the 2023 proposed budget.

2022

Downtown San Rafael is coming back to life after some slow COVID years. The BID hosted numerous events, including two highly successful (and profitable) events: May Madness and the Hops and Vine Stroll.

Unfortunately, our BID assessments were much lower than usual and our costs have increased. Proceeds from BID assessments decreased to \$61,648, approximately 25% lower than our typical assessment revenue of \$83,000. Payroll costs, as well as higher costs due to inflation, increased our overall expenses for the year.

We project a loss of approximately \$18,000 for 2022, leaving the BID with a cash balance of \$43,500.

2023

We will continue to host similar events to last year, plus a few more new events. These events are either profitable or low cost, with a significant benefit to the Downtown community.

We project that our costs will remain high and that our BID assessments will remain similar to 2022. As a result, without additional funding, we will need to postpone some of our initiatives (e.g. beautification, downtown walking app).

We project a loss of approximately \$16,000 for 2023, leaving the BID with a cash balance of \$27,500.

CITY OF SAN RAFAEL

NOTICE OF PUBLIC HEARING BEFORE THE SAN RAFAEL CITY COUNCIL

You are invited to attend the City Council public hearing on the following resolution of intention.

DATE/TIME:

Monday, December 5, 2022, at 7:00 p.m.

LOCATION:

City Council Chambers, City Hall, 1400 Fifth Avenue, San Rafael, CA 94901. The public may participate either by attending the meeting in person or by teleconference by visiting <https://www.cityofsanrafael.org/departments/public-meetings/> for the call-in phone number and meeting ID listed on the agenda (or using Zoom app to connect to this meeting ID).

RESOLUTION NO. 15160

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL DECLARING THE CITY COUNCIL'S INTENTION TO LEVY AN ANNUAL ASSESSMENT FOR CALENDAR YEAR 2023 FOR THE DOWNTOWN SAN RAFAEL BUSINESS IMPROVEMENT DISTRICT

WHEREAS, California Streets and Highways Code Sections 36500 et seq. authorizes cities to establish parking and business improvement areas for the purpose of promoting economic revitalization and physical maintenance of business districts, in order to create jobs, attract new businesses and prevent erosion of business districts; and

WHEREAS, the Downtown San Rafael Business Improvement District ("BID") was established in 2013 to amend the existing Parking and Business Improvements District instituted in 1979 in the commercial area on and around the Fourth Street corridor in San Rafael; and

WHEREAS, pursuant to San Rafael Municipal Code Chapter 10.09 and California Streets and Highways Code Section 36533, the Advisory Board of the BID shall prepare an annual report for each calendar year in which assessments are to be levied which the City Council shall review; and

WHEREAS, the BID Advisory Board has prepared and filed with the City Clerk its "BID 2022 Annual Report" and the City Council has reviewed and approved the report;

NOW THEREFORE BE IT RESOLVED by the City Council of the City of San Rafael as follows:

1. The City Council intends to levy and collect an annual benefit assessment for calendar year 2023 on businesses in the Downtown San Rafael Business Improvement District to pay for selected improvements and activities of the BID.

2. The boundaries of the entire area to be included in the BID, and the boundaries of each separate benefit zone within the BID, are set forth in Exhibit A to the BID 2022 Annual Report on file with the City Clerk.

3. The types of improvements and activities proposed to be funded by the levy of assessments on business in the BID are set forth in the BID 2022 Annual Report on file with the City Clerk.

4. The method and the basis for levying the benefit assessment on businesses within the BID and proposed assessments to be levied for calendar year 2023 are set forth in San Rafael Municipal Code Section 10.09.050 and Exhibit B to the BID 2022 Annual Report on file with the City Clerk.

5. All funds of the BID shall be expended on improvements and activities within the BID.

6. New businesses shall not be exempt from payment of the fee.

7. A public hearing to consider the levy of the BID assessment shall be held before the City Council on December 5, 2022 at 7 p.m. in the Council Chambers, 1400 Fifth Avenue, San Rafael, California or by teleconference by visiting <https://www.cityofsanrafael.org/departments/public-meetings/> for the call-in phone number and meeting ID listed on the agenda (or using Zoom app to connect to this meeting ID).

At the public hearing the testimony of all interested persons, for or against the levy of the BID assessment or on any of the matters included in the assessment, will be heard and all protests collected.

8. A protest against the assessment of the BID, or any aspect of the assessment may be made in writing or orally at the public hearing. To be counted as a part of a majority protest against the assessment of the BID, a protest must be in writing and from a business in the BID. A written protest may be withdrawn from the record at any time before the conclusion of the public hearing. Each written protest shall contain a written description of the business in which the person signing the protest is interested, sufficient to identify the business, and its address. If the person signing the protest is not shown on the official records of the City of San Rafael as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business. Any written protest of the regularity of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made.

9. If at the conclusion of the public hearing on December 5, 2022 there is a record of written protests by business owners within the BID who will pay fifty percent (50%) or more of the total assessments of the entire BID, no further proceedings to levy the proposed assessment shall occur for a period of at least one year from the date of the finding of the majority written protest by the City Council. If the majority written

protest is against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

10. Further information regarding the Downtown San Rafael Business Improvement District may be obtained from the Office of Economic Development at 1400 Fifth Avenue, San Rafael, CA 94901.

11. The City Clerk is directed to give notice of said public hearing by publishing this resolution of intention once in a newspaper of general circulation in the City of San Rafael, at least seven days before the hearing; and by mailing a complete copy of this Resolution of Intention to those interested parties who have filed a written request with the local agency for mailed notice of public meetings or hearings on new or increased general taxes.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 21st day of November 2022, by the following vote, to wit:

AYES: COUNCILMEMBERS: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None



Lindsay Lara, City Clerk

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ORDINANCE NO. 2022

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING TITLE 12 (BUILDING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, BY AMENDING THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE FOR ELECTRIC VEHICLE CHARGERS; AMENDING THE 2022 CALIFORNIA MECHANICAL CODE AND THE 2022 CALIFORNIA PLUMBING CODE TO LIMIT FUEL GAS IN EXISTING SINGLE FAMILY HOMES AND DUPLEXES, AND PROHIBIT FUEL GAS IN NEW CONSTRUCTION WITH LIMITED EXCEPTIONS; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CODES.

THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

DIVISION 1. AMENDMENTS TO MUNICIPAL CODE.

Chapter 12.235 of the Municipal Code of the City of San Rafael is hereby amended to read as follows:

CHAPTER 12.235 - CALIFORNIA GREEN BUILDING ~~CONSTRUCTION~~ STANDARDS CODE AMENDMENTS

12.235.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Replacement language to the base code has been underlined.

12.235.020 Amendments. The 2022 California Green Building Standards Code is amended or modified as follows:

Delete Section 4.106.4.1 and replace in its entirety to read as follows:

4.106.4.1 New One- And Two-Family Dwellings and Town-Houses. For each dwelling unit, install a 40 ampere 208/240 volt dedicated EV branch circuit, capable of supporting Level 2 EVSE, terminating with a receptacle or an EV charger in close proximity to the vehicle charging area.

Delete Subsection 4.106.4.1.1 in its entirety.

Subsection 4.106.4.2 [unchanged].

Delete Subsection 4.106.4.2.1 and replace in its entirety to read as follows:

4.106.4.2.1 New Hotels and Motels. The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Capable.** Ten (10) percent of total number of parking spaces on the building site, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future Level 2 EVSE. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.

The service or subpanel circuit directory shall identify the overcurrent protective device space(s) reserved for future EV charging purposes as "EV CAPABLE" in accordance with the California Electrical Code.

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Exceptions: When EV chargers (Level 2 EVSE) or EV Ready are installed in a number greater than the minimum required, the EV capable spaces may be reduced by the same number.

2. **EV Ready.** Thirty-five (35) percent of total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. Conduit size and junction boxes for EV ready must be sized for Level 2 EVSE as in accordance with the California Electrical Code.

Exceptions:

1. Areas of parking facilities served by parking lifts.
2. When EV chargers (Level 2 EVSE) are installed in a number greater than the required, the EV ready spaces may be reduced by the same number.

3. **EV Chargers.** Ten (10) percent of total number of parking spaces shall be equipped with Level 2 EVSE.

When low power Level 2 EV charging receptacles or Level 2 EVSE are installed beyond the minimum required, an automatic load management system (ALMS) may be used to reduce the maximum required electrical capacity to each space served by the ALMS. The electrical system and any on-site distribution transformers shall have sufficient capacity to deliver at least 3.3 kW simultaneously to each EV charging station (EVCS) served by the ALMS. The branch circuit shall have a minimum capacity of 40 amperes, and installed EVSE shall have a capacity of not less than 30 amperes. ALMS shall not be used to reduce the minimum required electrical capacity to the required EV capable spaces.

Delete Subsection 4.106.4.2.2 and replace in its entirety to read as follows (subsection 4.106.4.2.2.1 remains unchanged):

4.106.4.2.2 New Multifamily Dwellings and New Residential Parking Facilities. The number of dwelling units, sleeping units or guest rooms shall be based on all buildings on a project site subject to this section.

1. **EV Ready.** Eighty-five (85) percent of total number of parking spaces shall be equipped with low power Level 2 EV charging receptacles. For multifamily parking facilities, no more than one receptacle is required per dwelling unit when more than one parking space is provided for use by a single dwelling unit. Conduit size and junction boxes for EV ready must be sized for Level 2 EVSE as in accordance with the California Electrical Code.

Exceptions:

1. Areas of parking facilities served by parking lifts.
2. When EV chargers (Level 2 EVSE) are installed in a number greater than the required, the EV ready spaces may be reduced by the same number.

2. **EV Chargers.** Fifteen (15) percent of total number of parking spaces shall be equipped with Level 2 EVSE. Where common use parking is provided, at least one EV charger shall be located in the common use parking area and shall be available for use by all residents or guests.

When low power Level 2 EV charging receptacles or Level 2 EVSE are installed beyond the minimum required, an automatic load management system (ALMS) may be used to reduce the maximum required electrical capacity to each space served by the ALMS. The electrical system and any on-site distribution transformers shall have sufficient capacity to deliver at least 3.3 kW simultaneously to each EV charging station

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(EVCS) served by the ALMS. The branch circuit shall have a minimum capacity of 40 amperes, and installed EVSE shall have a capacity of not less than 30 amperes. ALMS shall not be used to reduce the minimum required electrical capacity to the required EV capable spaces.

Subsection 4.106.4.2.2.1 [unchanged].

CHAPTER 12.245 - CALIFORNIA MECHANICAL CODE AMENDMENTS

12.245.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.245.020 Amendments. The 2022 California Mechanical Code is amended or modified as follows:

Amend Section 1301.1 to read as follows:

1301.1 Applicability. The regulations of this chapter shall govern the installation of fuel gas piping in or in connection with a building, structure or within the property lines of premises up to 5 pounds-force per square inch (psi) (34 kPa) for natural gas and 10 psi (69 kPa) for undiluted propane, other than service pipe. Fuel oil piping systems shall be installed in accordance with NFPA 31.

Exceptions:

1. Fuel gas and oil piping is prohibited in new construction unless for use in emergency electrical generation when required by the code, commercial kitchen for preparing food, commercial laundry for laundry, or in an approved industrial process.
2. Existing fuel gas and oil piping in one- and two-family dwellings may not be expanded unless overall gas use is reduced, unchanged, or is for additional attached housing.
3. Existing gas meter service size in one- and two-family dwellings may not be increased unless the increase is required for additional attached housing.

At the discretion of the building official, the building official may approve fuel gas in new construction or expand fuel gas in existing construction when replacing with electric has been demonstrated to be technically infeasible or has a disproportionate cost to the project causing an insurmountable hardship.

CHAPTER 12.250 - CALIFORNIA PLUMBING CODE AMENDMENTS

12.250.010 General. For purpose of this Chapter:

Deleted language from the base code has been ~~stricken through~~.
Added language to the base code has been underlined.

12.250.020 Amendments. The 2022 California Plumbing Code is amended or modified as follows:

Amend Section 1201.1 to read as follows:

1201.1 Applicability. The regulations of this chapter shall govern the installation of fuel gas piping in or in connection with a building, structure or within the property lines of premises up to 5 pounds-force per square inch (psi) (34 kPa) for natural gas and 10 psi (69 kPa) for undiluted propane, other than service pipe. Fuel oil piping systems shall be installed in accordance with NFPA 31.

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Exceptions:

1. Fuel gas and oil piping is prohibited in new construction unless for use in emergency electrical generation, commercial kitchen for preparing food, commercial laundry for laundry, or in an approved industrial process.
2. Existing fuel gas and oil piping in one- and two-family dwellings may not be expanded unless overall gas use is reduced, unchanged, or is for additional attached housing.
3. Existing gas meter service size in one- and two-family dwellings may not be increased unless the increase is required for additional attached housing.

At the discretion of the building official, the building official may approve fuel gas in new construction or expand fuel gas in existing construction when replacing with electric has been demonstrated to be technically infeasible or has a disproportionate cost to the project causing an insurmountable hardship.

DIVISION 2 FINDINGS.

The San Rafael City Council finds that the scientific evidence has established that natural gas combustion as well as leakage occurring during natural gas procurement, transportation, storage, and distribution produce significant greenhouse gas emissions that contribute to global warming, climate change and sea level rise.

California Health and Safety Code Sections 17958.5, 17958.7, and 18941.5 require that findings be made in order to change or modify building standards found in the California Building Standards Code based on local climatic, geologic, or topographic conditions. Therefore, the San Rafael City Council hereby finds that these changes or modifications to the California Green Building Standards Code, the California Plumbing Code and the California Mechanical Code as adopted in Chapter 12.200 of the San Rafael Municipal Code are reasonably necessary because of the following local climatic, geological and topographical conditions:

I. Climatic conditions:

- a) Most of the annual rainfall in San Rafael occurs during the winter, it receives no measurable precipitation between May and October. During this time, temperatures average between 70 and 90 degrees. These conditions eliminate most of the moisture in the natural vegetation and heavily wooded hillsides. The area also suffers periodic droughts that can extend the dry periods to other months of the year. These conditions can be further exacerbated by occasional off-shore hot, dry, Santa-Ana winds; all of which contribute to an elevated fire hazard.
- b) Most of the annual rainfall in San Rafael occurs during the winter, and some portions of San Rafael are subject to tidal influences, there are times that flooding conditions occur in low-lying areas

II. Geologic conditions:

- a) San Rafael lies near several earthquake faults, including the very active San Andreas Fault, there are significant potential hazards such as road closures, fires, collapsed buildings, and isolation of residents requiring assistance.
- b) Many areas of the city, including some highly developed industrial and commercial areas, are located on bay alluvial soils which are subject to liquefaction in the event of an earthquake.

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III. Topographic conditions:

- a) Much of San Rafael is located in hilly areas, and many of the residential areas are heavily landscaped, and many exist adjacent to hilly open space areas which are characterized by dry vegetation and have limited access. In addition, the steepness of grades located in the hills and canyons results in narrow and winding roads, and limited water supply, making timely access, rescue and firefighting activities by emergency providers difficult.
- b) The major arterial route between San Francisco and Marin and Sonoma county areas, Highway 101, bisects the City of San Rafael; should that highway become impassable, alternative routes via surface streets in San Rafael may cause heavy traffic congestion, limiting emergency access.

More specifically, the above modified building standards are listed below with the corresponding climatic, geological or topographical condition which necessitates the modification.

Cal Green Section Numbers	Climatic, geological and topographical condition
4.106.4.1.	<i>1a, 1b, 11a, 111a, 111b</i>
4.106.4.2.1	<i>1a, 1b, 11a, 111a, 111b</i>
4.106.4.2.2.	<i>1a, 1b, 11a, 111a, 111b</i>
CMC Section Numbers	
1301.1	<i>1a, 1b, 11a, 111a, 111b</i>
CPC Section Numbers	
1201.1	<i>1a, 1b, 11a, 111a, 111b</i>

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

This Ordinance is exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3), since it can be seen with certainty that the adoption of this Ordinance would not have potential for causing a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3), 'general rule' provision). The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

DIVISION 4 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council of the City of San Rafael hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases shall be declared invalid.

DIVISION 5. EFFECTIVE DATE OF ORDINANCE.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published and circulated in the City of San Rafael and shall be in full force and effective thirty (30) days after its adoption. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Council members voting for or against

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same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 21st day of November 2022, and was passed and adopted at a regular meeting of the San Rafael City Council on the 5th day of December 2022 by the following vote, to wit:

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

Kate Colin, Mayor

Attest:

LINDSAY LARA, City Clerk

SUMMARY OF ORDINANCE NO. 2022

AN ORDINANCE OF THE SAN RAFAEL CITY COUNCIL AMENDING TITLE 12 (BUILDING REGULATIONS) OF THE MUNICIPAL CODE OF THE CITY OF SAN RAFAEL, BY AMENDING THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE FOR ELECTRIC VEHICLE CHARGERS; AMENDING THE 2022 CALIFORNIA MECHANICAL CODE AND THE 2022 CALIFORNIA PLUMBING CODE TO LIMIT FUEL GAS IN EXISTING SINGLE FAMILY HOMES AND DUPLEXES, AND PROHIBIT FUEL GAS IN NEW CONSTRUCTION WITH LIMITED EXCEPTIONS; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CODES.

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 2022 which will amend Title 12 of the City of San Rafael Municipal Code concerning the 2022 California green building standards code for electric vehicle chargers; the 2022 California mechanical code and the 2022 California plumbing code to limit fuel gas in existing single-family homes and duplexes, and prohibit fuel gas in new construction with limited exceptions. Ordinance No. 2022 is scheduled for adoption by the San Rafael City Council at its regular meeting of December 5, 2022. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance would amend Title 12 (Building Regulations) of the San Rafael Municipal Code, by amending the 2022 California Green Building Standards Code for electric vehicle chargers; amending the 2022 California Mechanical Code and the 2022 California Plumbing Code to limit fuel gas in existing single family homes and duplexes, and prohibit fuel gas in new construction with limited exceptions.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk's Office at city.clerk@cityofsanrafael.org or by phone at (415) 485-3066. Copies of the Ordinance containing this Municipal Code amendment are also available for public review at the San Rafael City Clerk's office, 1400 Fifth Avenue, 2nd Floor, Room 209, Monday through Thursday from 9:00 a.m. to 4:00 p.m., and on Fridays by appointment only.

/s/ _____
LINDSAY LARA, City Clerk
San Rafael City Clerk
Dated: November 25, 2022