

January 24, 2024

By E-Mail

City Council
City of San Rafael
c/o City Clerk
1400 Fifth Avenue, Room 209
San Rafael, CA 94901
city.clerk@cityofsanrafael.org

**Re: Dominican Valley Residential Development Applications –
Inapplicability of Builder’s Remedy**

Dear Members of the City Council:

This office represents Save Dominican Valley (“SDV”), an unincorporated association of San Rafael residents and property owners living in the vicinity of Dominican Valley. The purpose of this letter is to document the non-applicability of the so-called “Builder’s Remedy” to the development applications submitted by Dominican Valley, LLC (“developer”) beginning on or after June 7, 2023, seeking land use entitlements for up to 64 residential units on a +/- 21-acre site at Magnolia Avenue and Deer Park Avenue in the City of San Rafael (“Project”). In order to provide necessary clarity to the developer and the affected public, as well as to avoid unnecessary use of limited staff time and resources, SDV respectfully requests that the Council direct its planning staff to advise the developer that its applications may not be processed according to the Builder’s Remedy, and must instead undergo standard entitlement review under the City’s municipal code. The basis for SDV’s request is provided below.

Background – The Builder’s Remedy

Part of the State Housing Accountability Act, the Builder’s Remedy protects affordable housing projects by enumerating what appear to be the exclusive grounds

on which a city may deny such a project or render it “infeasible.” Specifically, a city may block a 20 percent low-income or 100 percent moderate-income project only if the city proves that one of the following conditions is met:

1. The city has a “substantially compliant” housing element and has “met or exceeded” its share of regional housing need for the types of housing the project would provide. (Gov’t Code § 65589.5(d)(1).)

2. The project would have “a significant, quantifiable, direct, and unavoidable impact” on public health or safety, “based on objective, identified written...standards...as they existed on the date the [project] application was deemed complete.” (Gov’t Code § 65589.5(d)(2).)

3. The project violates a “specific state or federal law” and there is “no feasible method” to comply without rendering the project “unaffordable to low- and moderate-income households.” (Gov’t Code § 65589.5(d)(3).)

4. The project site is zoned for agricultural or resource preservation or lacks adequate water or wastewater service. (Gov’t Code § 65589.5(d)(4).)

5. The project is inconsistent with the city’s zoning and the land-use designation of its general plan “as it existed on the date the application was deemed complete,” and the city “has adopted a revised housing element in accordance with [statutory deadlines] that is in substantial compliance with this article.” (Gov’t Code § 65589.5(d)(5).)

Most relevant here is paragraph 5, which allows the City to disapprove a proposed project if it is inconsistent with the City’s General Plan and/or Zoning Ordinance as they existed when the City deems the applications complete, provided the City has adopted an updated Housing Element that is substantially compliant with the Housing Element Law. Likely also relevant is paragraph 2, which allows the City to disapprove a project if it would significantly impact public health and safety in violation of existing objective criteria.

Housing Element Adoption Timeline

The following is derived from information posted on the City’s website, as well as from documents made available to SDV in response to requests for public records.

On May 15, 2023 the City Council adopted its updated 2023-2031 Housing Element. In its resolution of adoption, the City Council made an express finding that the updated Housing Element was substantially compliant with the State Housing Element Law as follows:

“As required by Government Code Section 65585, the City Council has considered the findings made by the Department of Housing and Community Development (HCD) included in HCD’s letter to San Rafael dated March 20, 2023. The City revised the “Draft Housing Element” transmitted to HCD on December 20, 2022, to address each of the findings in the HCD letter. **The Housing Element now substantially complies with all requirements of State Housing Element Law as interpreted by HCD.**”

(*See* “Resolution Adopting the 2023-2031 San Rafael Housing Element and Amendments to the Safety and Resilience Element,” May 15, 2023, p. 8 [boldface added].) The City submitted the adopted Housing Element to HCD for certification as substantially compliant on May 17, 2023.

According to information on the city’s website, on June 1, 2023, HCD contacted the City to request only minor revisions to Programs 11 and 44 in the adopted document. HCD apparently gave no indication that it disagreed with the City Council’s substantial compliance determination, or that the adopted Housing Element required any substantial changes to substantially comply with the Housing Element Law. The City made the requested minor revisions, and published them in a revised document on June 7, 2023. Although HCD did not notify the City of its finding of substantial compliance until June 22, the fact remains that the City has had a substantially compliant Housing Element in place since May 15, 2023.

Project Application Timeline

Beginning on June 7, 2023 Dominican Valley, LLC (Ray Cassidy) submitted five “preliminary applications” to the City under SB 330, each describing various configurations of single-family homes, duplexes, and/or townhomes. The City received the last of these preliminary applications on June 22, 2023. (*See*, Dominican Project Notice, **Attachment 1**.)

On July 28, City planning staff notified the developer by letter that its earliest application, PLAN23-075 dated June 7, contained the materials required under SB 330. (**Attachment 2**.) The letter stated that the Project had “vested rights” (i.e., would be subject only to General Plan and Zoning restrictions in effect as of the date of submittal of the preliminary application).¹

On September 8, 2023, SDV sent a letter to the City Council and Community Development Director asserting that none of the preliminary applications qualified for processing under SB 330 due to misleading information and apparent incompatibilities with applicable federal, state, and local regulations governing wetlands, fire safety, and development in the wildland-urban interface (“WUI”). On October 3, 2023, SDV sent a follow-up letter to the City Council and Community Development Director documenting how the application did not qualify for the Builder’s Remedy for various reasons, including that the City had a substantially compliant Housing Element in place as of May 15, 2023, and that the Project would constitute a threat to public safety due to its siting in the WUI. Copies of SDV’s two letters are attached hereto as **Attachment 3**.

On December 5, 2023, the developer submitted a final application under SB 330 for the proposed subdivision of the +/- 21-acre site into 50 lots, with 50 residential housing units and 14 Junior Accessory Dwelling Units (ADUs), with 20 percent of the units classified as affordable. The application form included a notation alleging: “[t]his development application provides at least 20% of the units as

¹ Under SB 330, the submittal of a completed “preliminary application” form containing items of information specified in the statute has the practical effect of “locking in” the ordinances, policies, and development standards as they existed in the City’s General Plan and Zoning Code as of the date of the submittal. (Gov’t Code § 65941.1.) Thus, except for certain very narrow exceptions, a project described in a preliminary application will not be subject to any subsequently enacted changes in the applicable City ordinances, policies, and standards. (*See* Gov’t Code § 65589.5(o)(1).)

affordable and therefore must be processed pursuant to the Builders Remedy of the Housing accountability act.”

By letter dated January 4, 2024, the City’s Planning Department notified the developer that the application was incomplete, indicating what items needed to be included in any re-submittal to make the application complete, in accordance with Government Code section 65943. (**Attachment 4.**) The City’s letter makes no mention of the Builder’s Remedy. To the contrary, the letter expressly states that the developer must submit additional information necessary for the City to process a Zoning Amendment (Rezoning) and General Plan Amendment, since the proposed Project is not consistent with the City’s current development standards and other regulations.

Analysis - The Application Does Not Qualify for the Builder’s Remedy

While the City’s letter of incompleteness implies that it is not processing the application pursuant to the Builder’s Remedy, SDV believes it is advisable and necessary for the City to make clear to the developer and San Rafael citizens that that the Project as a matter of law does not qualify for the Builder’s Remedy. As is clear, the City had adopted a substantially compliant Housing Element on May 15, 2023, over three weeks before the developer submitted its first preliminary application either on June 7 or June 13.² Furthermore, the Builder’s Remedy would only be available if the City did not have a substantially compliant Housing Element in place as of the date the application was “deemed complete.” This of course has not yet occurred.³

Please note that the Project as currently proposed raises serious concerns stemming from its unit configuration and location within the City’s wildland urban interface (“WUI”), a very high severity fire zone designated pursuant to Government

² The City’s Notice indicates submittal on June 7, but its July 28 SB 330 acceptance letter indicates submittal on July 13.

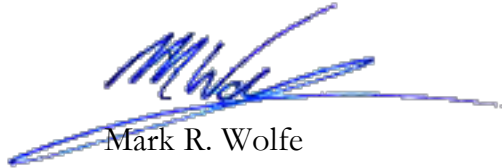
³ Although Government Code section 65589.5(h)(5) defines “deemed complete” as including the submittal of a preliminary application under SB 330, the term refers only to the date after which a project is immune from subsequently enacted changes to a city’s general plan or zoning. The availability of the Builder’s Remedy is triggered only if the city has no substantially compliant housing element in place at the time a full application is deemed complete under section 65943.

Code sections 51178 and 51179. The site also appears to include riverine wetlands and/or other fluvial and intermittent streams, and may also include habitat for some special-status species. It is therefore critical that the Project application(s) be processed in accordance with all currently applicable City planning and zoning requirements, in conjunction with federal and state regulations.

In sum, there is no plausible basis for the developer to claim that its application qualifies for processing under the Builder's Remedy. Thus, to provide necessary clarity to the developer and the affected public, and to avoid unnecessary expenditure of limited staff time and resources, the City should declare publicly that this is the case.

Most sincerely,

M. R. WOLFE & ASSOCIATES, P.C



Mark R. Wolfe

On behalf of Save Dominican Valley

MRW:

attachments

cc: Margaret Kavanaugh-Lynch, Planning Manager

ATTACHMENT 1

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DOMINICAN PROJECT



Location: At the Eastern Terminus of Magnolia Avenue at Deer Pak Avenue

APN: 015-163-03

Acres: 21.08

Avg Slope: 39.87

Zone: Planned Development (PD1884)

General Plan Land Use Designation: Hillside Residential (HR)

Land Use: Undeveloped

Project Applicant: Ray Cassidy

Project Page:

<https://www.cityofsanrafael.org/dominican-residential/>

SUBDIVISION & RESIDENTIAL DEVELOPMENT

The City of San Rafael has received five (5) SB330 Preliminary Applications for four residential design alternatives for development of a 21.08-acre site located at Magnolia Avenue at Deer Park Avenue. The four design alternatives described in the Table below include two proposal for a 29-unit alternative and one proposal each for 36 units, 54 units, and 75 units. See Table below for more information. The public is encouraged to provide written comment on the Preliminary Applications and any future applications directly to the project applicant, Ray Cassidy, Applicant: at marindevelop@gmail.com or the Planning Division: at planning@cityofsanrafael.org.

DESIGN ALTERNATIVE COMPARISON TABLE

	PROPOSAL A PLAN23-075	PROPOSAL B PLAN23-077	PROPOSAL C PLAN23-080	PROPOSAL D PLAN23-081	PROPOSAL E PLAN23-086
PRELIMINARY APPLICATION DATE:	June 7, 2023	June 8, 2023	June 12, 2023	June 13, 2023	June 22, 2023
HOUSING TYPE:	23 two-story single-family homes and 6 three-story townhomes	23 two-story single-family homes and 6 three-story townhomes	75 three-story townhomes	42 three-story townhomes, 10 two-story single-family homes, and 2 Duplexes	30 two-story single-family homes and 6 three-story townhomes

SUBSEQUENT DEVELOPMENT APPLICATION PROCESS

After receiving the Staff Response, the Applicant may prepare and submit a formal application with all supporting studies and reports. The City will then conduct its review process that typically takes 8—12 months. During that time Staff will thoroughly analyze the application and supporting documents and prepare and publish a written Staff report. The Report will include a detailed technical evaluation of all project supporting studies and documents including but not limited to evaluation of geotechnical studies of soils and ground conditions, biological reports of wildlife, adequacy of transportation access facilities and any needed improvements as well as overall consistency with the City’s General Plan and Housing Element.

Any application will be subject to public hearings before the Design Review Board, where architectural design issues are decided, and the Planning Commission, where General Plan, traffic, and the final Planned Development specifications are decided. The Planning Commission decision may be appealed to the City Council. These public hearings will provide opportunities for community members to provide live public comments directly to decision makers. Each of these meetings will be publicly noticed in the following ways:

- Written Notice of each public hearing (including date and time of the hearing) will be sent by US Postal mail no less than 15 days prior to each hearing.
- Notices will be sent to residents within 300 feet of the property, to neighborhood/homeowners associations and to individuals requesting notification.
- Notice boards will be posted at visible locations at the project site.

ATTACHMENT 2

ATTACHMENT 2

ATTACHMENT 2

ATTACHMENT 2



July 28, 2023

Ray Cassidy
Dominican Valley LLC
PO Box 150173
San Rafael, CA 94915
marindevelop@gmail.com

**Re: File No: PA23-002 (PLAN23-075)
Preliminary Application for Dominican Residential Development - Proposal A
(APN 015-163-03)**

Project Description: SB330 Preliminary Application for the evaluation of a major subdivision and development of a 21.08-acre site. The application proposes to subdivide the subject parcel into 25 lots and construct 29 residential units (23 two-story single-family homes and 6 three-story townhomes).

Dear Mr. Cassidy:

The Community Development Department is in receipt of your preliminary application for a proposed housing development project at Magnolia Avenue at Deer Park Avenue (APN 015-163-03) in San Rafael.

Planning staff has reviewed the application and determined that the applicant has provided the required submittal materials for a Preliminary Development Project Application (SB 330). These materials include: a completed SB 330 Preliminary Application Form, payment of application fees, and preliminary project plans per the required checklist. The project, therefore, has vested rights as of the date of Pre-Application submittal (June 7, 2023), unless¹:

- The project does not commence construction within 30 months of the project's site permit being issued;
- The number of units or total square footage of the project increases by more than 20%, except as revised under the State Density Bonus Law; or
- The vested rights would cause an adverse impact to public health or safety as defined in state law.

Development impact fees, application and permit processing fees, capacity or connection fees, or other charges may be annually adjusted based on a published cost index.

The project proposes new construction on vacant property; residential structures with three (3) or more dwelling units; subdivisions located on properties with an average slope of twenty-five percent (25%) or greater; circulation and parking and loading facilities for motor vehicles and

¹ Refer to SB 330 provisions for additional circumstances under which the Preliminary Application may expire.

requests a density bonus under the State Density Bonus Law. The proposed project is subject to a Conceptual Review and Design Review Board recommendation (San Rafael Municipal Code "SRMC" § 14.25.030); a Major Environmental and Design Review Permit; a Tentative Map Application for a Major Subdivision; and an Administrative Permit.

ENTITLEMENT PROCESS

In the event you plan to proceed with this proposal, please adhere to the following requirements for the entitlement of the project. Processing fees in the amount of \$3,000 (Conceptual Review); \$15,152 (Environmental and Design Review); an initial deposit of \$17,588 (Tentative Map Major Subdivision); and \$2,938 (Administrative Permit) for development application review must be remitted in order for your preliminary application to be complete (refer submittal requirements for each application below). Please note that for the initial deposit, staff time will be billed first against the deposit, and any time spent above the deposit will be billed to the applicant and is the responsibility of the applicant to pay.

1. Conceptual Review for initial input on project design.
 - a. Application fee of \$3,000 (flat fee).
 - b. Submittal Materials:
 - i. [Planning Application Form](#).
 - ii. [Application Submittal Checklist](#).
 - c. Public hearing by the Design Review Board (Public Notice will be given consistent with SRMC [Chapter 14.29](#)).
2. Environmental and Design Review Permit (Major).
 - a. Application fee of \$15,152 (flat fee).
 - b. Submittal Materials.
 - i. [Planning Application Form](#)
 - ii. [Application Submittal Checklist](#)
 - iii. [Planning Application Submittal Webpage](#) - physical copies of materials are no longer required, all application materials may be submitted via the webpage.
 - c. Environmental Review. City staff will determine what CEQA process is required after reviewing the formal application for the project area.
 - d. Public hearings by Planning Commission (Public Notice will be given consistent with SRMC [Chapter 14.29](#))
3. Major Subdivision Map (Tentative Map)
 - a. Initial deposit of \$17,588.
 - b. Submittal Materials:
 - i. [Planning Application Form](#)
 - ii. [Subdivision Submittal Handout](#)
 - iii. Additional requirements:
 1. SRMC [Chapter 15.02 - Major Subdivisions \(Five Or More Lots\)](#)
 2. SRMC [Chapter 15.07 - Standards for Hillside Subdivisions](#)
 - c. Public hearing with the Planning Commission
4. Affordable Housing Requirement. All Residential development projects with 15 or more housing units must provide 5% of the proposed units (excluding density bonus units) as

low-income units.² In addition, all residential development projects with 15 or more housing units must satisfy the secondary requirement through one of various means of compliance, as outlined in City Council Resolution [14890](#). In order to receive project approval, you must demonstrate compliance with the affordable housing requirement. The preliminary application proposal does not appear to satisfy this requirement.

5. Density Bonus. In order to receive approval for a density bonus, you must file an Application for a Density Bonus and/or Concessions or Incentives for Residential Development Projects. Application for a Density Bonus shall be made in the following manner:
 - a. Application fee of \$2,938 (flat fee)
 - b. Submittal Materials:
 - i. [Planning Application Form](#)
 - ii. [Submittal Requirements](#)

6. City Council Exception. A City Council Exception would be required pursuant to SRMC § 14.12.040 if the proposal does not comply with requirements for a hillside property per SRMC § 14.12.030.
 - a. Application fee is currently \$2,742.
 - b. Public hearings with Design Review Board and Planning Commission for recommendation, for a City Council decision.

7. [14.07.150 - Amendments to PD Zoning and Development Plans—New application.](#)

Requests for changes in the contents of approval of a PD zoning and development plan shall be treated as a zoning amendment (rezoning). Rezoning shall be heard and decided by the city council. The procedures for filing and processing a rezoning shall be the same as those established for an initial PD zoning and development plan application.

- a. Application fee of \$17,889
- b. Submittal Material:
 - i. [Planning Application Form](#)
 - ii. [Submittal Requirements](#)

POLICIES

In the event you plan to proceed with this proposal, the following policies and requirements apply to the subject property. Provide a narrative of compliance with the following requirements with the application.

1. General Plan.
 - a. The project complies with the Minimum Lot Area of 2.5 acres.
 - b. Residential Unit Density of 0.5 to 2.2 units per net acre is permitted in the Hillside Residential designation. The preliminary information provided with the current proposal does not include the net project area to determine the proposed density.
 - c. Policies under the "[Neighborhood Element](#)" for Dominican/Black Canyon Neighborhood applies for the project property.

² SRMC Ch. [14.16.030](#), City Council Resolutions [14890](#) and [14891](#).

2. Zoning. All requirements under [Chapter 14.07 - Planned Development District \(PD\)](#) and [Chapter 14.12 - Hillside Development Overlay District \(-H\)](#) apply to the project.
3. Hillside Design Guidelines. The project site exceeds 25% in lot slope, therefore the [Hillside Design Guidelines](#) applies for the project. The Design Review Board and Planning Commission will review the proposed project in relation to the policies and objective standards.
4. Affordable Housing. This project would be required to comply with the City's Affordable Housing Requirements, pursuant to [SRMC § 14.16.030](#).
5. Creeks and Other Watercourses. The project is subject to the requirements under [SRMC § 14.16.080](#).
6. Retaining Walls and Fences. The project is subject to the requirements per [SRMC § 14.16.140](#).
7. Light and Glare. The project is subject to the requirements per [SRMC § 14.16.227](#).
8. Major Subdivision (Five or More Lots). The project is subject to the requirements [SRMC § 15.02.010](#).
9. Subdivision on a Hillside Lot. The project is subject to the additional findings required for a subdivision on a hillside lot, pursuant to [SRMC § 15.07.020.d](#).

DEFICIENCIES

1. Density Bonus. The preliminary application seeks more density bonus units than allowed under the State Density Bonus Law. Government Code section 65915(f)(1) contains a table listing the percentage density bonus permitted for different percentages of units affordable to low-income households at base density. Similarly, Government Code section 65915(f)(2) contains a table listing the percentage density bonus permitted for different percentages of units affordable to very low-income households at base density. Proposal A provides 19 base density units, 3 of which are affordable to low-income households. With 15% of base density units affordable to low-income households, the proposal qualifies for a 27.5% density bonus under § 65915(f)(1). The application improperly requests a 50% density bonus despite being ineligible for a bonus above 27.5%.

Should you have any questions please do not hesitate to contact me at Monica.Ly@cityofsanrafael.org or 418-458-5048. See attached for Departmental Review comments on the preliminary application.

Sincerely,



Monica Ly
Senior Planner

Cc: Alicia Giudice, Community Development Director

ATTACHMENTS

1. Fire Department Comments
2. Public Works Comments
3. Library and Recreation Comments
4. San Rafael Sanitation District Comments

CITY OF SAN RAFAEL

SAN RAFAEL, CALIFORNIA

INTER-DEPARTMENTAL MEMORANDUM

DATE: June 16, 2023
TO: Ray Cassidy
FROM: Bob Sinnott, Fire Prevention
SUBJECT: Planning File #PLAN23-075 -
29 units Dominican Site - SB330 (a)

This memorandum is intended to assist the applicant in determining the feasibility of this project and in the preparation of construction documents regarding compliance with the California Code of Regulations Title 24 and local ordinance requirements. After review of the application and plans provided for this project, the **Fire Prevention Bureau** has the following comments:

1. The design and construction of all site alterations shall comply with the 2022 California Fire Code, current NFPA Standards, and all applicable City of San Rafael Ordinances and Amendment.
2. A Fire Construction Plan will be required for this project. (See attached)
3. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems:
 - a. Fire Apparatus Access & Operations Plan (see attached)
 - b. Fire Sprinkler plans
 - c. Fire Standpipe plans
 - d. Fire lines serving fire hydrants
 - e. Fire Alarm plans (depending on if this a complex)
 - f. Vegetation Management Plan
4. The fire apparatus access roadway must conform to all provisions in CFC Section 503 and Appendix D.
 - a. Designated fire apparatus access roads.
 - b. Red curbs and no parking fire lane signs.
 - c. Fire hydrants.
 - d. Fire Department Connection (FDC).
 - e. Double detector check valve.
 - f. Street address sign.
 - g. Recessed Knox Box
 - h. Fire Alarm annunciator panel.
 - i. NFPA 704 placards.
 - j. Provide a note on the plan, as follows: The designated fire apparatus access roads and fire hydrant shall be installed and approved by the Fire Prevention Bureau prior construction of the building.

5. A Knox Box is required at the primary point of first response to the building. A recessed mounted Knox Box # 3200 Series is required for new buildings; surface mount for all others. the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72” to 78” above finish grade; show the location on the plans.
<https://www.knoxbox.com/commercial-knoxboxes/>
6. A Knox key switch is required for driveway or access road automatic gates.
<https://www.knoxbox.com/gate-keys-and-padlocks/>
7. On site fire hydrants will be required. Residential model: Clow 950. Commercial Model: Clow 960. The Prevention Bureau will identify the locations.
8. When additions or alterations are made, the nearest existing fire hydrant shall be upgraded. Residential model: Clow 950. Commercial Model: Clow 960. This is required for the hydrant located at:
9. When a building is fully sprinklered all portions of the exterior building perimeter must be located within 250-feet of an approved fire apparatus access road.
 - a. The minimum width of the fire apparatus access road is 20-feet.
 - b. The minimum inside turning radius for a fire apparatus access road is 28 feet.
 - c. The fire apparatus access road serving this building is more than 150-feet in length; provide an approved turn-around. Contact the Fire Prevention Bureau for specific details.
10. If the building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building.
 - a. The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.
 - b. The minimum unobstructed width for an aerial fire apparatus access road is 26-feet.
 - c. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building.
11. Fire lanes must be designated; painted red with contrasting white lettering stating, “No Parking Fire Lane” A sign shall be posted in accordance with the CFC Section 503.3 and to the satisfaction and approval of the San Rafael Parking Services Division.
12. Provide address numbers plainly visible from the street or road fronting the property. Numbers painted on the curb do not qualify as meeting this requirement. Numbers shall contrast with the background and shall be Arabic numbers or letters. Numbers shall be internally or externally illuminated in all new construction or substantial remodels. Number sizes are as follows: For residential – 4” tall with ½” stroke. For commercial – 6” tall with ½” stroke. Larger sizes might be required by the fire code official or in multiple locations for buildings served by two or more roads.
13. Contact the Marin Municipal Water District (MMWD) to make arrangements for the water supply serving the fire protection systems.

These preliminary comments could change as the project progresses through the review processes.



City of San Rafael - Fire Construction Requirements

Please review, sign, date and return this form to the Fire Prevention Bureau

Project required to comply with CA Fire Code **FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION**

1. Fire apparatus access roads to be “all weather” and approved prior to first lumber delivery.
2. Fire lanes, signage, red curbing required when construction exceeds second story.
3. Fire hydrants installed & operational prior to first lumber delivery.
4. Fire extinguishers mounted every 75’ of travel distance on each floor under construction and adjacent to all storage sheds and inside all temporary office structures.
5. Approved Fire Department standpipe required during construction if building over 30’ in height.
6. Means of egress must be clearly marked and kept clear at all times from the highest point of the building to public way.
7. 24 hour emergency contact information posted on job site in visible location.
8. Temporary heating equipment to be listed and labeled - and shall be used in accordance with the listing and manufacturer’s instructions.
9. Smoking shall be prohibited except in approved locations. NO SMOKING signs shall be posted.
10. Combustible waste shall not be allowed to accumulate within building or on job site grounds.
11. An approved Fire Watch shall be required during all non-work periods when the project exceeds three stories in height. Refer to Fire Watch form.
12. The owner is responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of construction. SUBMIT TO THE FIRE PREVENTION BUREAU FOR APPROVAL.
13. Construction gates to have Knox padlocks. www.knoxbox.com
14. Deferred Fire Prevention Bureau permits required for <https://www.cityofsanrafael.org/fire-prevention-inspection/>
 - a. Fire sprinkler system
 - b. Fire underground main
 - c. Temporary standpipe system
 - d. Fire alarm system
 - e. DAS Emergency Responder Coverage System
 - f. Standpipe system
 - g. Commercial cooking hood system
 - h. Temporary membrane structures and tents over 400 square feet
 - i. Hot work
 - j. Cutting/Welding Operations

I understand and acknowledge the provisions of this form:

Owner/Project Manager

Date



City of San Rafael - Fire Apparatus Access & Operations Plan

DEFERRED FIRE PREVENTION PERMIT REQUIRED

Some or all of the elements listed below could apply. Please include all applicable information pertaining to your project on the Fire Apparatus Access Plan.

1. Emergency vehicle access (refer to separate handout). (CFC 503 and Appendix D)
 - a. Note road width and turning radius.
 - b. Angle of approach and departure.
 - c. Turn around dimension.
2. Fire flow based on building type and size. (CFC 507)
3. Fire Sprinkler and underground fire main equipment locations.
 - a. PIV/OS&Y/FDC locations.
 - i. Note all valves monitored and locked with break-away padlocks.
 - b. Alarm bell location (note sign required on bell that states: FIRE SPRINKLER CALL 9-1-1.
 - c. Check valve location (note on plan that location and height have been approved by MMWD).
4. Aerial access - ladder truck roadway access location and dimensions. (CFC D105)
 - a. Note locations of overhead electrical wires or other obstructions.
5. Fire lanes including striping and signage details. (CFC D103.6)
6. Class I standpipe equipment locations.
 - a. Confirm need for standpipe system as per CFC section 905.
7. Note location of yard private hydrants (if applicable). 300' to furthest wall in travel direction.
8. Knox box location. (CFC 506) - Note model 3200 series – recessed.
9. Premises identification – illuminated address numbers - dimensions and location.
10. Exiting system/stairs and emergency egress to public way.
11. Fire alarm/monitoring details.
 - a. Annunciator/main panel location.
 - b. Alarm room door marked **FACP**
 - c. Note on plan that system to be monitored by an approved 24/7 receiving company.
12. Elevator control information and elevator car dimensions.
 - a. Elevator fire recall information.
 - b. Note stretcher accommodation.
13. Identify closest City fire hydrants.
 - a. Note distance to building.
 - b. Type of appliance. (Note: applicant could be responsible for changing out hydrant body).
14. Fire extinguisher locations.
 - a. Note cabinet height.
 - b. Note size and type of appliances.
15. Location of utility shut offs – gas, electric and water.
 - a. Note on plans that this equipment will be plainly marked.
16. Utility and storage room locations – marked and identified.
17. Identify roof top stair access location.
18. Emergency responder radio coverage - BDA/DAS building distributed antenna system. (CFC 510)

CITY OF SAN RAFAEL, CALIFORNIA
DEPARTMENT OF PUBLIC WORKS

MEMORANDUM

TO: RAY CASSIDY
PROJECT APPLICANT

DATE: JUNE 29, 2023

FROM: MATTHEW PEPIN
SENIOR CIVIL ENGINEER

SUBJECT: Planning File #PLAN23-075 – Pre-Application: 29 Units Dominican Site (a)

The Department of Public Works (DPW) has reviewed the referenced pre-application and have the following comments:

1. The proposed development is a “major subdivision”. Please see San Rafael Municipal Code (S.R.M.C.) Chapter 15 for subdivision requirements.
2. The proposed “internal roadways” off Deer Park Ave. and Highland Ave. will be considered private streets and therefore will be privately maintained. The street width will be evaluated at the time of formal application. DPW will evaluate the proposed street width for adequate circulation, vehicular access, and access for Marin Sanitary Service equipment. The street width should also meet Fire Prevention Bureau standards (see comments 4 and 5 below).
3. The extension of Gold Hill Grade to access lots 1-4 is within dedicated public right-of-way and therefore will be a public street. As such, design of the roadway is subject to S.R.M.C. sections 15.06.050 and 15.07.030.
4. See Fire Prevention Bureau comments for minimum width, slope, and access requirements if the proposed internal roadways and Gold Hill Grade extension will be considered a “Fire Apparatus Access Road”.
5. If the proposed internal roadways and Gold Hill Grade extension will be considered a “Fire Apparatus Access Road”, please include as part of a formal application a maneuvering exhibit with the appropriate fire apparatus and emergency vehicles using Autoturn or equivalent to demonstrate access to the satisfaction of the Fire Prevention Bureau.
6. Per Section S-4 (Geotechnical Review) and Appendix F of the San Rafael General Plan, a geotechnical investigation report that addresses the proposed development will be required prior to planning approval. A third-party geotechnical peer review of the project geotechnical report may be required prior to planning approval.
7. A hydrology study with preliminary drainage layout is required prior to planning approval to ensure adequate on-site and off-site infrastructure exists. Submit hydrology and hydraulic calculations for the 10-year storm frequency for pre- and post- construction to verify no increase in runoff due to the proposed development. Provide engineering solution to mitigate any increase in runoff. Runoff shall not be added and/or diverted onto adjoining properties.
8. An ephemeral stream and 25 ft setback are shown running from east to west through the center of the site on the hydrology figure prepared by Sunset Ecological Solutions. However, the stream and setback are not incorporated into the proposed lot layouts. Please provide clarification in formal submittal.

9. This project appears to create or replace more than 5,000 square feet of impervious area and therefore will be considered a regulated project. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements:
- i) Stormwater Control Plan – A short written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirements. (Needed to obtain planning permit.)
 - ii) Stormwater Facilities Operations and Maintenance (O&M) Plan – A short written document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. The maintenance plan shall include the manufactures recommended maintenance practices, designated parties of responsible for upkeep, specify funding source for ongoing maintenance with provisions for full replacement when necessary and provide a site-specific inspection checklist. (Provide prior to occupancy)
 - iii) Operations and Maintenance Agreement – A formal agreement between the property owner and the city that shall be recorded with the property deed prior to occupancy. (Provide prior to occupancy)

More information is available from MCSTOPPP. See tools and guidance, and post construction requirements at: <https://mcstoppp.org/2020/03/new-and-redevelopment/>

10. The parcel is not located in a low VMT area for residential development. The City of San Rafael Transportation Analysis Guidelines suggest a full VMT screening process (TAM Model will have to be engaged to determine VMT). The VMT results should be compared to the threshold. It is suggested to run the model for the final development scenario since the model work is extensive.
11. Prior to issuance of a building permit, the applicant shall pay a traffic mitigation fee for net new AM and PM peak-hour trips. The rate per peak-hour trip and the corresponding amount of the traffic mitigation fee will be determined based on the rate in effect on the date of building permit issuance. For reference, the current rate is \$5,674 per peak-hour trip. The current rate is valid until January 1, 2024. The rate is adjusted annually in accordance with Resolution No. 14983 which includes built-in increases for base fee and construction index adjustments.
12. We anticipate the following frontage/off-site improvements will be required as part of the development:
- a. Upgrade Deer Park Ave. roadway along project frontage.
 - b. Upgrade Deer Park Ave. roadway between Highland Ave. and southern border of subject property.
 - c. Upgrade Gold Hill Grade roadway along project frontage.
 - d. Upgrade drainage infrastructure along Deer Park Ave. and Gold Hill Grade as needed to facilitate roadway improvements and the new development.
 - e. Provide a parking area at Gold Hill Grade to accommodate public access to the City Open Space.
 - f. Dedicate a public access easement (PAE) for the walking trail through the property that historically has been used by the public to access City Open Space.
13. Creek setbacks shall be determined per S.R.M.C. section 14.16.080.
14. A buildability analysis shall be provided for lots 21-32 prior to planning approval.
15. Mass grading and earthwork operations shall occur between April 15 and October 15 unless approved otherwise by DPW.
16. A construction management plan should be submitted for City review prior to issuance of building permit. Construction staging shall be onsite unless negotiated otherwise with DPW.

17. An encroachment permit and grading permit will be required from the DPW prior to construction.
18. 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.

The applicant will be required to provide reimbursement for third-party consultant review fees. This may include, but not limited to, fees associated with the review of traffic, civil engineering, geotechnical engineering, and surveying aspects of future project submissions.

Please contact Matthew Pepin at the Department of Public Works with questions regarding these comments, by phone at 415.725.9346 or email at Matthew.Pepin@cityofsanrafael.org.



Library and Recreation

SAN RAFAEL

THE CITY WITH A MISSION

INTER-DEPARTMENTAL MEMORANDUM

DATE: June 22, 2023
TO: Ray Cassidy
FROM: Catherine Quffa, Library and Recreation Director
SUBJECT: Library & Recreation Review of PLAN23-075 (Project A)

Comments

1. Per [Chapter 15.09](#) - PARK DEDICATION AND IN-LIEU FEES:
 - (a) At the time of approval of the tentative map for a residential subdivision, the approving body shall determine the land required under this chapter for dedication, or the amount of in-lieu fees pursuant to [Section 15.09.030](#).
 - (b) The park land dedication or in-lieu fee that is required to meet the provisions of this chapter shall be imposed as a condition of approval on the tentative map.
 - (c) At the time of final map or parcel map approval for recordation, the subdivider shall dedicate land, pay a fee in lieu thereof, or a combination of both, at the option of the city, for neighborhood and community park or recreational purposes at the time and according to the standards and formula contained in this chapter.

2. Per [Chapter 3.24](#) - PARK AND RECREATION FACILITIES FEE, park and recreation facilities fee are imposed for every dwelling unit constructed in the city. However, at the option of the parks and recreation commission and the city council, land may be dedicated to the city for park purposes in lieu of the fees designated in this chapter. The amount of land to be dedicated and the amount of credit to be given, if any, shall be at the discretion of the parks and recreation commission and the city council.



**San Rafael
Sanitation
District**

111 Morphew Street
San Rafael, CA 94901

Telephone 415 454-4001

Board of Directors

Kate Colin, Chair
Maribeth Bushey, Secretary/Director
Katie Rice, Director

District Manager/District Engineer

Doris Toy, P.E.

Monday, July 3, 2023

File No. 14.20.23.030

Ray Cassidy
PO Box 150173
San Rafael, CA 94915
marindevelop@gmail.com

**Re: San Rafael Sanitation District Plan Review Response for:
APN: 015-163-03
Planning Permit No. Plan23-075; New Residential Dwelling Units.**

Dear Mr. Cassidy

San Rafael Sanitation District (SRSD) has reviewed the resubmitted Plans on 6/8/2022 for the subject project and has the following conditions that shall be addressed in a separate building permit application:

1. Provide civil plans to show how the proposed SFD will connect to the existing sanitary sewer main. The SFD sewer lateral connection plan shall include the following:
 - a. Provide a cleanout/backflow-prevention device no further than 2-ft from the building foundation. Note that the Contra Costa-type backflow device with a 2-way cleanout is preferred.
 - b. If the difference in elevation of the lowest fixture and the backflow-prevention device is less than six inches, a backwater check valve shall be installed.
 - c. Show the pipe material type and diameter proposed for the lateral connection per Table 1 of the SRSD Specifications for Laterals.
 - d. Provide a profile of the sewer lateral from the proposed dwelling to the proposed sewer main connection point showing the pipe depth per the pipe material type pursuant to SRSD Specifications for Laterals.
 - e. Provide complete Civil Plans for the proposed re-route of the 6" VCP sewer main per SRSD Standard Specifications and Drawings, 2007.
2. Provide engineering sewage flow calculations for the existing sewer main pipes on Deer Park Ave to verify if the existing pipes can handle the increase loads due to the development. If not, the pipes need to be upsized.
3. Provide the following notes on the Civil Plans:
 - a. All exterior sanitary sewer-related work shall be performed in accordance with the San Rafael Sanitation District (SRSD) Standard Plans and Specifications.
 - b. A sewer permit from the San Rafael Sanitation District is required independent of a building permit for all proposed sewer lateral work outside the dwelling footprint. The property owner or authorized agent shall apply for a sewer permit online or contact SRSD for more information at (415) 454-4001 prior to the start of work.

- c. Notify the San Rafael Sanitation District Inspector 72 hours prior to the start of sanitary sewer construction by phone at (415) 454-4001.
4. Pursuant to District Ordinance No. 56, the District requires a sewer connection fee based on the total numbers of dwelling units and it is due prior to issuance of a building permit.

If you have any questions, please contact Tim Tran at 415-451-2441 or email at tim.tran@cityofsanrafael.org.

Sincerely,

TIM TRAN

Tim Tran, PE
Associate Civil Engineer

ATTACHMENT 3

ATTACHMENT 3

ATTACHMENT 3

ATTACHMENT 3



September 8, 2023

By E-Mail

Hon. Mayor Kate Colin
Members of the City Council
City of San Rafael
c/o City Clerk, city.clerk@cityofsanrafael.org
1400 Fifth Avenue, Room 209
San Rafael, CA 94901

Cc: Alicia Giudice, Community Development Director
(community.development@cityofsanrafael.org)
Cc: Robert Epstein, City Attorney (rob.epstein@cityofsanrafael.org)

Re: SB 330 Preliminary Applications for residential development submitted to the City of San Rafael by Dominican Valley LLC for the property at Magnolia Avenue at Deer Park Avenue in San Rafael (APN 015-163-03).

Dear Mayor Colin and Members of the City Council,

We, the Steering Committee of Save Dominican Valley, a local community organization representing nearly 300 residents and homeowners in the Dominican Valley neighborhood in San Rafael, are writing to draw your attention to the five SB 330 Preliminary Application Forms submitted by Dominican Valley LLC (the "Applicant") for residential development proposals, known as PLAN 23-075, 23-077, 23-080, 23-081, and 23-086 (the "Project"), for the property located at the intersection of Magnolia Avenue at Deer Park Avenue in San Rafael (APN 015-163-03).

We wish to notify you that those SB 330 Preliminary Application Form submissions contain significant material misstatements, inaccuracies, and factual misrepresentations, which correspond to deficiencies in the responses to those submissions by the San Rafael Department of Community Development, on July 28, 2023. As a result, the Applicant's SB 330 Preliminary Application Forms and the City's acceptance of them should be rescinded and the Applicant directed to resubmit the Forms.

We fully acknowledge that the SB 330 Preliminary Application is just the first step in a multi-step process and its statutory requirements are minimal. However, the legal issues and the inaccuracy of the information provided by the Applicant, in this instance, are so significant that we feel obligated to alert the City and the Applicant at this time.

Our supporting analysis, presented below, generally follows the sequence of the 12 Questions in the SB 330 Preliminary Application Form. However, some comments are grouped together and are out of sequence when our comments relate to more than one of the 12 Questions on the SB 330 Preliminary Application Form. We have only included responses to those Questions we wish

to comment on at this time, reserving the right to make additional comments, in the future, as we receive more information about the proposed projects.

We have also added a new section: “13. COMMENTS ON ISSUES THAT MATERIALLY IMPACT THE ACCURACY AND COMPLETENESS OF THE APPLICANT’S SB 330 PRELIMINARY APPLICATION FORMS.” In this Section, we document related issues that may significantly impact the health, safety, and general welfare of residents of San Rafael as well as the design and feasibility of the projects proposed in the Applicant’s SB 330 Preliminary Application documentation.

SUMMARY OF FINDINGS:

Having reviewed the documents submitted by the Applicant and the requirements under local regulations, state law, federal law, and the SB 330 Preliminary Application submission requirements, for the reasons noted herein, we find that both the Applicant and the City of San Rafael made significant errors in submitting and reviewing the SB 330 Preliminary Applications.

Although we acknowledge that the SB 330 Preliminary Application Form does not require the level of detail examined in this comment letter, as with any other legally binding document, the law requires responses to the Form’s questions and the representations made by the Applicant to be reasonably complete and factually accurate for the document to be enforceable.

As such, neither the Applicant nor the City should assume that “vested rights” (under SB 330) are automatically granted simply because an Applicant has filled out a form, signs it, and delivers it to the City. Likewise, the City cannot reasonably establish a date of the granting of vested rights without reviewing the factual accuracy of the information submitted, particularly as it relates to violations of the City’s own General Plan and Zoning Code.

In our opinion, the City’s review was inadequate and the dates of the granting of “vested rights” are unsubstantiated and subject to challenge.

In addition, while we are also aware that a comprehensive assessment of environmental impacts will not be required until the CEQA Environmental Impact Report phase of the project’s review, we feel it is of great importance that we alert the City and Applicant, at the outset, of the broad range of potentially significant environmental impact noted herein, so proper procedures are adhered to in the interim and no pre-development site clearing or landscape modifications are permitted until such studies and assessments are completed.

It is important to note that all of the regulatory information presented in this comment letter is generally available to the public or anyone doing a Google search. As such, in our opinion, both the Applicant and the City should have been aware of the federal and state regulations, government agency maps, and guidelines we’ve cited.

Finally, please note that it is a fundamental requirement of *The Permit Streamlining Act (Assembly Bill 2234)*, *The Housing Accountability Act* and *Senate Bill 330* that in order to qualify for expedited processing a project proposal must be “consistent” with the City’s General Plan

and Zoning Codes, further defined as the existing “ordinances, policies, and standards” in effect (*SECTION 1. Section 65589.5 of the Government Code, 65589.5.(o)(1)*). Under *65589.5.(o)(4)*, ‘Ordinances, policies, and standards’ are further defined to include the...

...general plan, community plan, specific plan, zoning, design review standards and criteria, subdivision standards and criteria, and any other rules, regulations, requirements, and policies of a local agency, as defined in Section 66000, including those relating to development impact fees, capacity or connection fees or charges, permit or processing fees, and other exactions.

Furthermore, the parcel is located in the “Dominican / Black Canyon” Neighborhood. As clearly stated in The General Plan, under the *Neighborhood Element, Program NH-2.14B*, page 4-26:

“Dominican Hillside Parcels. Work with Dominican University and neighborhood residents to plan for the undeveloped hillside parcels located east of Deer Park Avenue and south of Gold Hill Grade. Much of the property is steep and heavily wooded. Other portions have the potential for housing, including student housing and faculty/staff housing, which is a significant local and community need. In the event housing is pursued, the permitted density should reflect site constraints. Development should conform to the City’s Hillside Residential Design Guidelines and include provisions for substantial open space. **The neighborhood should be involved in the planning and review process, which would include an amendment to the Master Use Permit and the PD-district zoning.”** [Emphasis added]

This is again acknowledged by the City in its responses to the developer, under “Policies, 1. General Plan, c, where it states,

“Policies under the “Neighborhood Element” for Dominican/Black Canyon Neighborhood applies for the project property.”

For the reasons enumerated in this comment letter, in our opinion, the City should inform the Applicant that the five *SB 330 Preliminary Applications* filed by the Applicant for the Project(s) known as PLAN 23-075, 23-077, 23-080, 23-081, and 23-086 are not eligible for processing under SB 330 because, (1) they contain incorrect and misleading information, (2) they are not “consistent” with the City of San Rafael’s *General Plan and Zoning Code*, making them categorically ineligible for “streamlining” processing under *SB 330, The Permit Streamlining Act, and The Housing Accountability Act*, (3) they violate local, state, and federal regulations regarding wetlands, fire safety, and WUI development requirements, and (4) they are categorically ineligible for “streamlining” processing under *SB 330, The Permit Streamlining Act, and The Housing Accountability Act* because the San Rafael *General Plan* specifically requires that any application for the development of the subject parcel will require a Master Use Permit Amendment and Zoning Code Amendment, under the *Neighborhood Element, Program NH-2.14B*.

OUR SPECIFIC FINDINGS ARE AS FOLLOWS:

Question 2: “EXISTING USES – The existing uses on the project site and identification of major physical alterations to the property on which the project is to be located.”

Comment 2a: The Applicant’s responses regarding “Existing Uses” are incorrect and incomplete because the site has historically provided public trails to adjacent open space.

In each of the five proposals submitted, the Applicant stated,

“Grading of existing site for new home pads, streets, sidewalk. Existing use is undeveloped land.”

The Applicant’s response fails to acknowledge that the general public has enjoyed open and unrestricted access to the subject property, historically, for many generations. As such, it has acted as a gateway to the contiguous public open space: the Harry Barbier Memorial Park, the San Pedro Mountain Preserve, and the China Camp State Park to the northeast and east.

This historic public use and the requirement to plan for the continuation of public access is affirmed and specifically stipulated by San Rafael, Senior Civil Engineer, Matthew Pepin, in his memo of June 29, 2023, in paragraph 12, items “e” and “f,” ([ATTACHMENT A](#)) which notes that “the Applicant must,”

“e. Provide a parking area at Gold Hill Grade to accommodate public access to the City Open Space.”

“f. Dedicate a public access easement (PAE) for the walking trail through the property that historically has been used by the public to access City Open Space.”

Similarly, in a letter sent to the Applicant on July 7, 2023, prominent San Rafael real estate attorney, Len Rifkind, opined that the project proposals need to acknowledge;

“...the recreational benefits of the area provided to the residents of the development and to the community at large, who through use over the past 100 + years have **implied dedication access rights**. Specifically, the Highland Spur public trail in the middle of the site, as well as all other established public use trails, must be preserved and adopted as an express easements for use by the public for hiking and biking.” [Emphasis added]

In each instance, the site plans submitted for the five SB 330 Preliminary Application proposals ignore the locations, block access and use, and/or completely obliterate the existence of historic pedestrian walking/hiking trails/rights that traverse the site by placing dwelling units, roadways, private driveways, and private property lines in their path, particularly at the existing main public entrances to the central trail located along Deer Park Avenue and Gold Hill Grade.

This is in direct contradiction to the requirements stipulated by Matthew Pepin and the explanation of “implied dedication access rights” above. As such, the City’s responses to the Applicant’s Preliminary Application proposals fail to hold the Applicant to the City’s own stated standards. Therefore, the City should inform the Applicant that the SB 330 Preliminary Application project plans and designs are incomplete and incorrect, regarding “Existing Uses,” and acknowledge the historical access rights of the general public before the Preliminary Application review process can proceed.

Comment 2b: The Applicant’s responses to “Existing Uses” fails to acknowledge that portions of the site have been used, historically, as a dumpsite.

The Applicant may not be aware or has otherwise failed to disclose that in the past, portions of the development property, particularly along Gold Hill Grade and the south side of the gravel road that runs through the center of the property near where this central road intersects with the upper fire road that connects Gold Hill Grade to the Highland/Margarita, were used as a “dumpsite.”

Personal recollections by Save Dominican Valley members, other long-time residents, and contractors indicate that the contents of this dumping site included but was not limited to household waste materials, plastics, abandoned appliances, construction debris, house paint, refrigerants, used car batteries (lead, cadmium, nickel, zinc and arsenic), motor oil, and other potentially toxic or toxic leaching materials.

These items and substances were buried and covered with soil and it is not known to what extent any were ever excavated, removed, or otherwise properly assessed. We are bringing this to your attention now because during the environmental assessment phase, any disturbance could release potentially hazardous substances into the air and water table. Toxins may already be present and leaching into the water-table.

This assessment should also be part of any hydrological impact assessment of the proposed development.

Comment 2c: The Applicant’s responses regarding “Identification of Major Physical Alterations” are misleading and inaccurate.

As described in detail under Questions “3. SITE PLAN” and “4. ELEVATIONS,” below, the Applicant has failed to disclose and has incorrectly described the major physical alterations of the property required for each of the five project proposals submitted.

The scope of the work required to develop any of the five schemes will necessitate major regrading and other physical reconfigurations of the existing topography and wholesale destruction and removal of large sections of the existing public use trails and the forest and its vegetation in order to access and build the housing proposed. In each instance, the proposed development plans will result in:

- (a) Massive clear-cutting of the existing forest and clearing of terrain vegetation,

- (b) Intense regrading of the land, resulting in significant cut and fill, and off-haul, and
- (c) Significant need to install hillside retainage structures and hillside drainage channels.

Once again, although we recognize that Senate Bill 330 does not require detailed assessment of these issues, we feel the potential significance of these issues is so great that we are compelled to notify you. Under SB 330, any proposal submitted must be consistent with the City's existing General Plan and Zoning Code requirements. In our opinion and as explained below, all of the Applicant's proposals fail to do so. Therefore, the Applicant's claim to be eligible for processing under SB 330 has not been established.

Questions 3 and 4:

“3. SITE PLAN – A site plan showing the location on the property, elevations showing design, color, and material, and the massing, height, and approximate square footage, of each building that is to be occupied.”

“4. ELEVATIONS – The proposed land uses by number of units and square feet of residential and nonresidential development using the categories in the applicable zoning ordinance.”

Comment 3a and 4a: Depictions are inaccurate regarding existing conditions.

As noted above, under “Major Physical Alterations,” the SITE PLANS and ELEVATIONS for each of the development proposals submitted are incomplete in their depictions and descriptions of the physical consequences of the development projects being proposed.

Moreover, in addition, the Site Plans and the Elevations submitted and the proposed housing designs are equally inaccurate, misleading, and essentially nonsensical in that *they do not correlate with or in any way accurately reflect* the existing topography, soils instability, or other potential challenges to construction on or access to the various “housing parcels” shown in the documentation submitted.

For example, in each scheme showing the development of single family homes, particularly those located along Margarita Avenue, the change in topography beneath the outlined “footprints” of the homes, shown on the Site Plans, is at times **as great as 25 feet of elevation** change, and the topography runs at angles to the rectangular housing footprints depicted. Yet, the Elevations submitted show homes fronting on level/flat topography and/or depict elevation changes that are modest and no more than one story high, which typically 10 feet high from floor to floor. This results in homes that are over 50 feet height on some sides.

Equally, the multifamily building Elevations submitted are inaccurate and misleading because they also depict construction on level/flat topography, which does not in any way reflect the topographical realities of the development sites depicted on the Site Plans. In some instances, the grade change beneath the multifamily building footprints varies by **as much as 23 feet of**

elevation change. In both these examples, the heights of some of the building roofs and exterior walls, from the existing grade, will be more than twice the heights shown in the Elevations and exceed the allowable limits of the applicable San Rafael Zoning Code. This results in homes that are over 40 feet height on some sides, slightly less than single-family homes due to flat roofs.

Finally, regarding the Plans and Elevations designs submitted, per the San Rafael Zoning Code, there are findings required before the City can approve a development application in a “PD” zoned area.

For example, *Section 14.06.090 – Findings*, states;

A recommendation by the planning commission to the city council or a decision by the city council to reclassify property to the PD district and/or to approve a development plan shall be based on the following set of required findings:

A. The development plan is consistent with the general plan, adopted neighborhood plans and other applicable city plans or policies;

B. Any residential development shall constitute a residential environment of sustained desirability and stability in harmony with the character of the surrounding neighborhood, and where applicable, adequate open space shall be provided; [Emphasis added]

The Applicant’s proposals do not address the City’s need to make these findings. Also, consider that *Division II – Base District Regulations* of the San Rafael Zoning Code indicate that building heights in the subject property’s “PD” zoning designation must conform to the residential height limitations found elsewhere in the Code. The Applicant’s failure to show accurate building heights in the ELEVATIONS, when the actual grade changes are accounted for, obfuscates the fact that the dramatic topography changes under the footprint of many of the homes will result in violations of the allowable residential heights.

Once again, **all five proposals fail to conform to the existing zoning at the time of the submission of the SB 330 Preliminary Applications**, making them ineligible for expedited, “streamlining” processing. For more information about unacknowledged issues in the Applicant’s response to this Question, please see our Comments under Item “13.b” below.

Question 7: “PARKING – The proposed number of parking spaces.”

Comment 7a: Public access parking is not provided.

As referenced in our comments on Question 2.a, above, the Applicant fails to acknowledge that the existing public parking currently along Gold Hill for visitors to park to access public, open lands, and trails must be maintained in the future. As such, the Preliminary Application SITE

PLANS must include indications of the number, sizes, and locations of public parking spaces provided for each proposed project configurations and their relationships to existing landscape features (trails, vehicular access, streams, drainage, flora and fauna, etc.) on the Site Plans.

This is particularly important in this Project's location because the roadways and neighborhoods contiguous to the proposed development proposals **are already extremely parking constrained** because of the narrowness of the streets, all of which are substandard and nonconforming with current City Codes and grossly inadequate to accommodate the parking demands of special events held in adjacent Dominican University buildings and for Dominican student housing.

Question 8: "AFFORDABLE HOUSING INCENTIVES, WAIVERS, CONCESSIONS and PARKING REDUCTIONS - Will the project proponent seek Density Bonus incentives, waivers, concessions, or parking reductions pursuant to California Government Code Section 65915?"

Comment 8: "Incentives, waivers, concessions, and parking reductions" available to the Applicant will be minimal.

Incentives, waivers, concessions, or parking reductions pursuant to the California State Density Bonus Law (SDBL) will be minimal, if any, because the project proposals fail to meet sufficient low-income unit thresholds and because the Applicant cannot use SDBL to override CEQA or the violations of state and the federal regulations discussed in this comment letter. It is also important to note that "waivers" are related to "building standards," but zoning" is not a "building standard" and therefore cannot be "waived" under the State Density Bonus Law.

Question 10: "POLLUTANTS – Are there any proposed point sources of air or water pollutants?"

Comment 10: The Applicant's response is incorrect in light of the proposals' violations of the creek setback regulations.

In each of the five proposals submitted, the Applicant checked off the box for "No." This is incorrect if one considers the implicit water pollution impacts caused by multiple violations of the required creek setbacks noted in our comments under **Question 12.a.ii**, below. In addition, the disturbance of the site during construction must consider the historical use of the site as an unofficial dumpsite. Please see our discussion under "**Question 2, Comment 2b.**"

Question 12: "ADDITIONAL SITE CONDITIONS"

"a. Whether a portion of the property is located within any of the following:

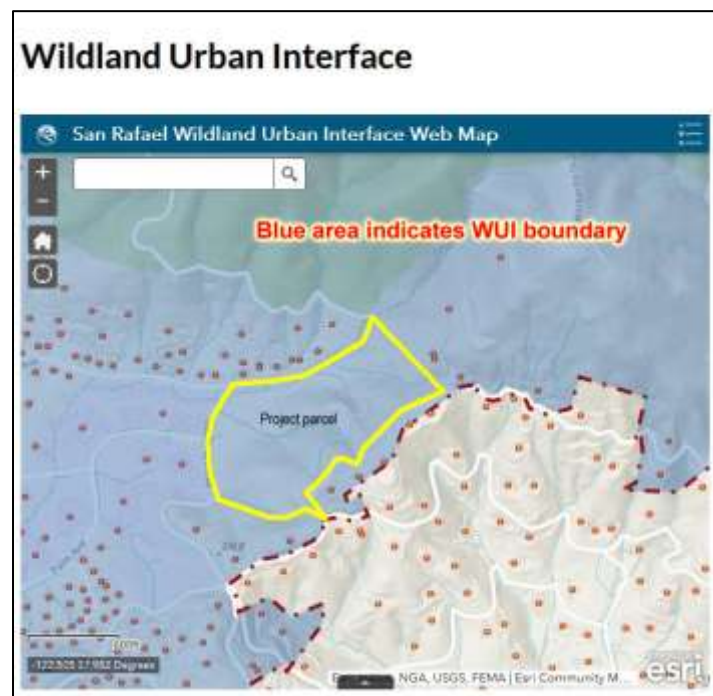
- i. **A very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection, pursuant to Section 51178?”**

Comments 12.a.i: The entire development site located in the Wildlands Urban Interface (WUI) and in violation of local and state regulations.

In each of the five proposals submitted, the Applicant checked off the box for “No.” However, the City and the Applicant must consider that parcel (APN 015-163-03) is located in the San Rafael Code Wildlands Urban Interface designation (the “WUI”) ([ATTACHMENT B](#)) and as such is subject to the requirements (vegetation management and ground clearing, etc.) of [Chapter 4.12. Wildland-Urban Interface – Vegetation Management Standards](#) of the San Rafael Fire Code, as authorized and provided for under *California Government Code, Section 51179*, which modifies the determinations under Section 51178.

The San Rafael Code describes the WUI as “**a designation of a very high severity zone** as provided in Government Code Section 51179” that requires developers “**to create defensible space around structures** that will minimize the spread of fires from wildlands to structures, from structures to wildlands, and from structures to structures.” (i.e., ground clearing/ground hardening) [Emphasis added]

“Defensible space” is further defined in the Code as an “**area one hundred feet (100’) around a structure** where vegetation management has been conducted to reduce the potential for transfer of fire between the structure and the adjacent wildland, the adjacent wildland and the structure, or from structure to structure.” [Emphasis added]



[ATTACHMENT B](#)

This standard makes all Site Plans of the five of the project proposals *infeasible and illegal* because the distances shown between structures are grossly inadequate and no “ground clearing/hardening” can occur within the mandatory 25 foot riverine stream and tributaries setbacks (See our comments to Question 12, below). **This increases the required distance between structures to 100 feet and the distance of structures from streams or tributaries to 125 feet.**

Also note that homeowners’ insurance companies are presently withdrawing from the California market and declining to insure homes in “very high fire hazard” zones” (the WUI). As such, fire safety and adequate access for first responder emergency vehicles and fire trucks and equipment is of paramount importance. The hazards in this case are increased by the fact that existing roads accessing and surrounding the development site are narrow and substandard, which decreases firefighting and first responder access and resident safety.

This was affirmed by Bob Sinnott, Assistant Fire Chief for San Rafael, in conversations with local residents following the June 6, 2022 “Magnolia” fire in San Rafael, during which Mr. Sinnott commented that with regard to fire evacuation issues in the area serviced by Deer Park Avenue, Gold Hill Grade, Magnolia Avenue, and Highland Avenue,

"The existing infrastructure [roads] are inadequate and do not meet California Fire Code."

Question 12: “ADDITIONAL SITE CONDITIONS”

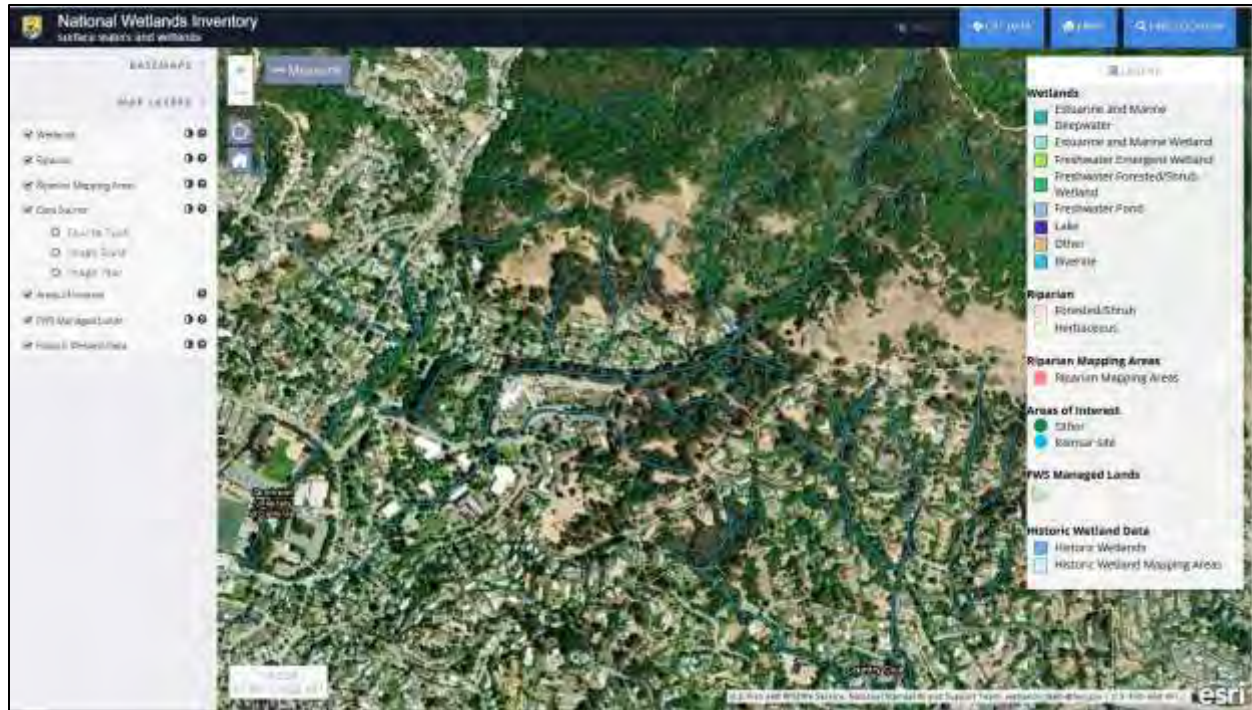
Question 12.a.ii

ii. Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)?

Comment 12.a.ii: The Applicant’s responses are incorrect and incomplete.

In each of the five proposals submitted, the Applicant checked off the box for “No.” This is incorrect.

The U.S. Fish & Wildlife Service *National Wetlands Inventory Map* ([ATTACHMENT C](#)) and the California ECO/Atlas of the *California Aquatic Resource Inventory* ([ATTACHMENT C2](#)) and the tenets of the State *Wetland and Riparian Area Monitoring Plan* (WRAMP) and the California *Wetland and Riparian Area Protection Policy* (WRAPP), clearly indicate that the subject property is **traversed by no less than six “Riverine” Wetlands/streams and tributaries, a designation that is subject to both federal and state regulations in addition to the San Rafael Zoning Code.**



ATTACHMENT C

In the Applicant’s Exhibit, “Roads and Hydrology 20230606c-2, by Sunset Ecological Solutions,” there is acknowledgment of the presence of only *some* of the intermittent streams and drainages on the subject property. Its information (presumably based on local Marin County GIS Open Data) is incomplete and its veracity is superseded by the designation procedures and requirements of the San Rafael Zoning Code and evidenced by the *National Wetlands National Inventory Map* and the California ECO/Atlas of the *California Aquatic Resource Inventory*.

As such, the Applicant’s SB 330 Preliminary Application Forms fail to fully acknowledge the presence of these “riverine wetlands” and the development-related requirements and consequences of these designations. After reviewing the development schemes submitted, in a memo sent to the Save Dominican Valley Steering Committee on July 12, 2023, Chris Rogers, Principal Ecologist at Wood Biological Consulting, ([ATTACHMENT C1](#)) wrote:

“The Applicant’s five SB 330 Preliminary Application Forms incorrectly state that no portion of the property is located within wetlands as defined by the U.S. Fish and Wildlife Service Manual, Part 660 FW2¹. This manual relies on the National Wetland Inventory, which broadly defines wetlands as follows. [Emphasis added]

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes (plants specifically adapted to live in wetlands); (2) the substrate is predominantly undrained hydric (wetland) soil; and (3) the substrate is nonsoil and is

¹ <https://www.fws.gov/policy-library/660fw2>

saturated with water or covered by shallow water at some time during the growing season of each year. (USFWS, Part 660 FW2).

“The manual further describes the classification system for wetlands and deep water habitats, which is consistent with the National Wetlands Inventory² (NWI).” The NWI Wetland Mapper, and online visualization tool for the NWI, depicts Sisters Creek, including four of its tributaries on the DV parcel, are classified as Riverine, intermittent streambed, temporarily flooded.”

The streams that traverse the development site ([ATTACHMENT C](#)) are subject to regulation under *Section 1600-1616* of the *California Fish and Game Code*. Again, according to Mr. Rogers:

“These [federal and state] regulations are in place to protect fish and wildlife resources associated with streams, including wetlands and riparian vegetation, and prohibit the alteration of the bed or bank of a stream or associated habitat without a Streambed Alteration Agreement with the CDFW.”

“The developer’s five Applications fail to acknowledge that the proposed development also would be subject to regulation by the U.S. Army Corps of Engineers (USACE) under Section 404 of the federal Clean Water Act, which regulates the discharge or placement of fill material into waters of the U.S., which may include Sisters Creek. The application should indicate awareness of the need to conduct a routine delineation of federal jurisdictional waters to determine if a permit from the USACE is needed for activities such as placing portions of the creek in underground culverts, replacing culverts, realigning sections of the creek channel, armoring the creek bank, constructing stormwater outfalls that discharge into the creek, construction of driveway crossings or other structures. The delineation survey and report should have been conducted prior to the preparation of project plans so that the plans would incorporate the results, and would be better informed about the best ways to avoid or minimize project impacts to the creek.”

“Sisters Creek and its tributaries *qualify as waters of the state*, which also are regulated by the San Francisco Regional Water Quality Control Board (RWQCB) under Section 401 of the federal Clean Water Act and under the state’s Porter-Cologne Water Quality Control Act. Activities that have a substantial effect on water quality and other Beneficial Uses, as defined in the San Francisco Basin Plan are subject to review and permitting by the RWQCB, in coordination with the other regulatory agencies (USFWS and CDFW). The application should address the potential for the proposed project to cause adverse water quality impacts, such as through the hardscaping of a significant portion of the

² <https://www.fws.gov/policy-library/660fw2>

² Cowardin, L.M., V. Carter, F.C. Golet, and E.T. LaRoe. 1979. *Classification of Wetlands and Deepwater Habitats of the United States*. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. 131 pp. Available online at <http://www.npwrc.usgs.gov/resource/wetlands/classwet/index.htm>

upper Sisters Creek watershed leading to increased discharge of sediment and pollutants and the decrease in wildlife value.” [Emphasis added]

The required setbacks from intermittent streams/riverine wetlands are not shown or detailed in the Site Plans of any of the proposed schemes nor is it shown how required setbacks will conflict with the locations of housing units. (ATTACHMENTS [E1](#), [E2](#), and [E3](#))

Mr. Rogers notes:

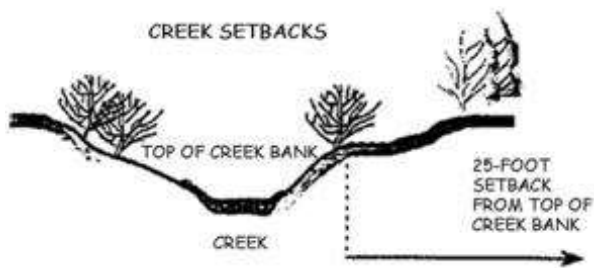
“Creek Setback – all portions of the 25-foot creek setback intended to protect and preserve Sisters Creek and its tributaries should be eliminated from the lots and included in the open space conservation easement. *Identifying this area as a setback on a tentative map will provide no protection to the creek from future development, alteration, and impact if included within the private lots.*” [Emphasis added]

This one requirement, which is also found in the San Rafael Zoning Code, indicates that major revisions to the development Site Plans are needed and may dramatically change the housing locations and reduce the housing density on the development site in each of the proposals. Mr. Rogers comment is affirmed by the San Rafael Zoning Code. Consider *Section 14.16.080 - Creeks and other watercourses*, wherein it states.

Improvements on a lot which is adjacent to, or contains, a creek, drainageway, or the San Rafael Canal shall be subject to the following provisions:

A. Setback, Creek. Creek setbacks shall be determined based on the setback criteria in subsection C below. These setbacks should include a twenty-five foot (25') or greater setback between any structure and the high top of the creek bank. On lots two (2) or more acres in size, a twenty-five foot (25') to one hundred foot (100') setback between any structure and the high top of the creek bank shall be provided.

Illustration [14.16.080](#)



(Ord. 1625 § 1 (part), 1992).

The wetlands provisions in the San Rafael Zoning Code also indicate that the Applicant’s proposals are not feasible and therefore cannot be approved. The subject property is zoned “PD,” however, Code *Section 14.13.202 (-WO)* is also relevant because the City’s zoning ordinance acknowledges that the City’s maps do not show all of the wetlands that exist in the City -- in this

case, the riverine wetlands, streams, and tributaries delineated on the U.S. Fish & Wildlife Service's *National Wetlands Inventory* maps. ([ATTACHMENT C](#)) and the California ECO/Atlas of the *California Aquatic Resource Inventory*. ([ATTACHMENT C2](#))

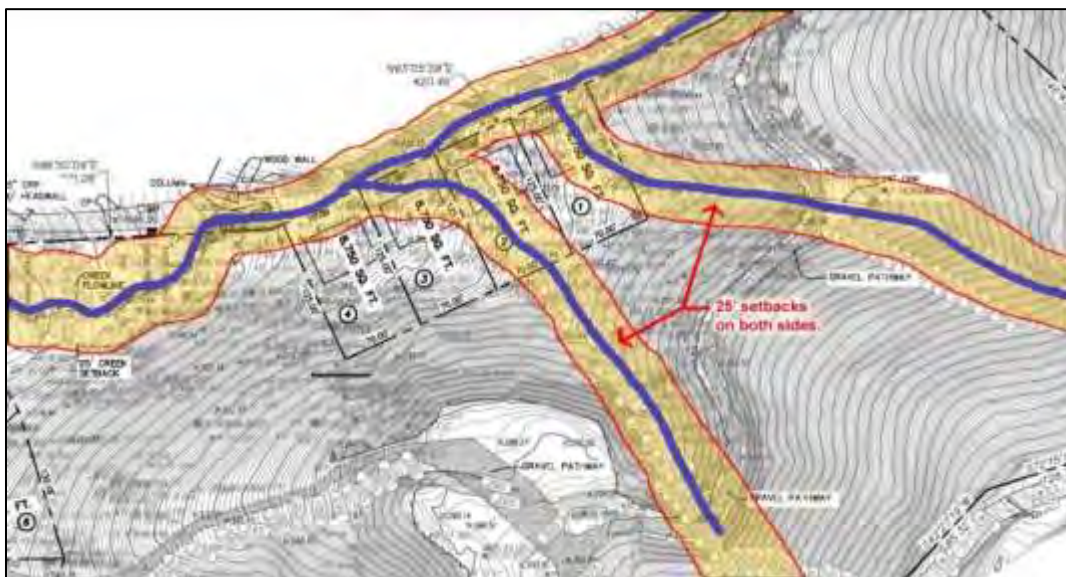
Under *Section 14.13.202 (-WO) B* it clarifies,

B. Wetlands are known to exist throughout the community that are not identified or shown in the wetland overlay district, as they are typically discovered and confirmed as part of a site-specific assessment. Nonetheless, all wetlands are protected under all of the terms and provisions of this chapter. A property containing wetlands that have been confirmed by the U.S. Army Corps of Engineers shall be rezoned to combine the wetland overlay district with the base zoning adopted for the property. [Emphasis added]

This clearly indicates that the subject property or portions thereof would need to be rezoned in order to allow the Applicant's proposals to be processed and approvable.

Note that the need for rezoning categorically disqualifies the applications from being processed under the provisions of the SB 330 Preliminary Application "streamlining" process. Similarly, the Applicant's failure to consider creek setback requirements in the San Rafael Zoning Code make each of the five project proposal Site Plans, as submitted, categorically ineligible for "streamlining" under the *Permit Streamlining Act*, the *Housing Accountability Act*, and *Senate Bill 330*.

The maps shown, below, ([ATTACHMENTS E1](#), [E2](#), and [E3](#)) illustrate the impermissible conflicts between the locations of the housing units, Sister's Creek and its tributaries, evidenced by the riverine wetlands streams noted on the *U.S. Fish & Wildlife National Wetlands Inventory* ([ATTACHMENT C](#)), the California ECO/Atlas of the *California Aquatic Resource Inventory*. ([ATTACHMENT C2](#)), and the required setbacks under the San Rafael Zoning Code.



[Attachment E1](#)

Question 12.a.vi

- vi. **A stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?**
-

Comment 12a.vi: Applicant's responses and descriptions are inaccurate and incomplete.

For each of the five proposals submitted, the Applicant checked off the box for "Yes," and added this description:

"Natural drainage pattern for the subject site traverses both into intermittent stream to the Sisters Creek, located north site and along the drainage ditch within the Deer Park Avenue R.O.W. [right of way], which drains into Sisters Creek. Additionally, the project site has a shallow swale traversing through an Area which carries seasonal storm drain runoff from upslope to the drainage ditch along Deer Park Avenue."

This response is inaccurate and incomplete because:

- a) It only partially describes the extent of intermittent streams and drainages that traverse the development site. As noted in our comments under Item #2, above, and shown on the U.S. Fish & Wildlife Service's *National Wetlands Inventory* ([ATTACHMENT C](#)), and the California *ECO/Atlas of the California Aquatic Resource Inventory*, the subject property is traversed by no less than six "Riverine Wetlands"/intermittent streams and its tributaries, and
- b) It fails to acknowledge or describe the obvious conflicts created by the locations of the proposed housing and the setbacks required by state law and the San Rafael Zoning Code. Even a cursory review of the SITE PLANS shows that in all schemes there are homes located right on top of and fully obstructing the path of the "riverine wetlands"/intermittent streams and natural drainages that traverse the site, particularly along Gold Hill Grade and Deer Park Avenue. (ATTACHMENTS [E1](#), [E2](#), and [E3](#)).

In addition to our comments to *Question 12.a.ii. Wetlands*, as defined in the *United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)* and the California *ECO/Atlas of the California Aquatic Resource Inventory*, and comments by San Rafael Sr. Civil Engineer, Matthew Pepin, in his letter of June 29, 2023, it is obvious that minimal due diligence by the City of San Rafael should have revealed these violations.

The City's uncritical acceptance of the SB 330 Preliminary Applications as being complete and accurate should be cause for concern by the City Council.

Agency jurisdictions and permitting requirements

It is important to bring to your attention that the Applicant's failure to disclose the impacts of each of the five project proposals on the existing riverine wetlands that traverse the property and the absence of required setbacks are contrary to the permitting requirements from the various agencies that have jurisdiction in the approval of the grading permits needed for the work to proceed, most important of which are the San Francisco Bay Regional Water Quality Control Board (SFRWQCB), whose superior authority is granted under the Porter-Cologne Water Quality Control Act., the Army Corps of Engineers, and Region 9 of the EPA.

The Applicant was clearly forewarned of this in the San Rafael Zoning Code.

Consider *San Rafael Zoning Code: Section 14.13.050 - Application for a use permit*, of the San Rafael Zoning Code, which states;

*B. Agency/Organization Consultations. **The applicant for a use permit is strongly encouraged to consult** with the U.S. Army Corps of Engineers, as well as the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, California Department of Fish and Game, California Coastal Conservancy, California State Lands Commission, San Francisco Bay conservation and development commission, San Francisco Bay Regional Water Quality Control Board, Marin-Sonoma mosquito abatement district and any other appropriate agencies or organizations early in the planning process. The application for a use permit should include a record of the persons consulted in each of the appropriate agencies or organizations. [Emphasis added]*

Finally, as noted in our comments regarding "major physical alternations" above, the scope of the development proposed in each of the five schemes submitted will clearly necessitate the destruction of most of the existing trees and canopy cover near the existing riverine wetlands/streams.

Canopy cover provides water protection, water conservation, and cooler water which allows for higher dissolved oxygen, contributes to vital food for insects, microorganisms and aquatic organisms in addition to contributing to their habitats. Canopy cover also offers protected drinking water for migrating birds. As such, its preservation is required to be preserved and is regulated and enforced by federal and state agencies.

Again, we acknowledge that this level of analysis is not required on the SB 330 Preliminary Application Forms, however, the errors and inaccuracies in the Applicant's responses are so significant that we are compelled to bring them to your attention, now.

Question 12.e: “Does the project site contain a stream or other resource that may be subject to a streambed alteration agreement pursuant to Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code?”

Provide an aerial site photograph showing existing site conditions of environmental site features that would be subject to regulations by a public agency, including creeks and wetlands.

If “YES,” please describe and depict in attached site map:”

Comment 12e: The Applicant’s data and mapping is inaccurate.

For each of the five proposals submitted, the Applicant checked off the box for “Yes,” and added this description:

“Natural drainage pattern for the subject site traverses both into intermittent stream to the Sisters Creek, located north site and along the drainage ditch within the Deer Park Avenue R.O.W. [right of way], which drains into Sisters Creek. Additionally, the project site has a shallow swale traversing through an Area which carries seasonal storm drain runoff from upslope to the drainage ditch along Deer Park Avenue.”

This response is clearly incomplete and incorrect.

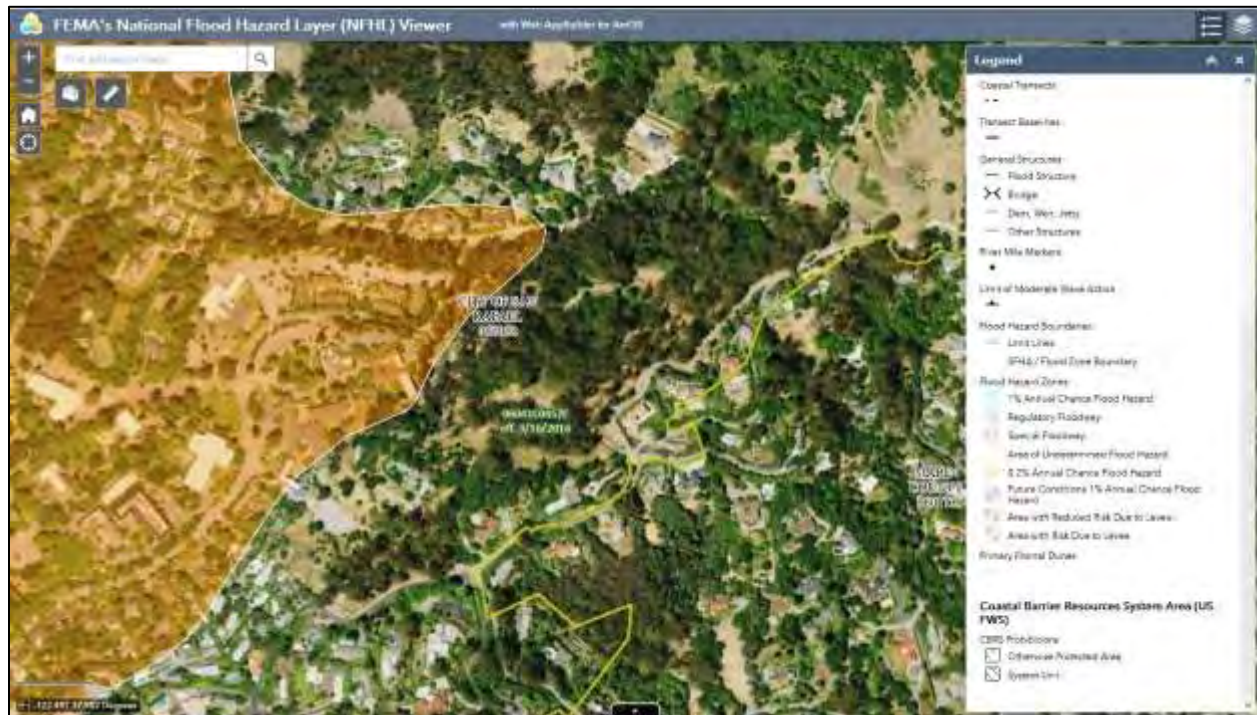
The “Aerial Map” provided by the Applicant (Applicant’s Exhibit, “Roads and Hydrology 20230606c-2, by Sunset Ecological Solutions”) is deficient because its data does not correspond to any recognized authority, including but not limited to the *U.S. Fish & Wildlife National Wetlands Inventory* ([ATTACHMENT C](#)), the California *ECO/Atlas of the California Aquatic Resource Inventory* ([ATTACHMENT C2](#)), or *California Fish & Game*.

QUESTION 12.a.iv: “A special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by any official maps published by the Federal Emergency Management Agency?”

Comment 12iv: Applicant’s response is technically correct but special circumstances are ignored.

In each of the five proposals submitted, the Applicant checked off the box for “No” indicating that the development site is not within the boundaries of a designated 100-year floodplain, per FEMA.

Although this response is technically correct, the City needs to consider that the western most portion of the subject property and access to it along Deer Park Avenue and Gold Hill Grade are located in a “.2% Annual Flood Hazard Zone” and that regardless of the FEMA designation, during heavy rains in the winter or 2022/2023 residents claim that ingress and egress access roads were at times impassible for days. ([ATTACHMENT D](#))



[Attachment D](#)

QUESTION 12.c: “Does the project site contain any species of special concern?”

Comment 12c: The Applicant’s responses are without merit.

For each of the five proposals submitted, the Applicant checked off the box for “No.”

Acknowledging, again, that the level of analysis included in these comments is not required at this stage of the application process, we find the Applicant’s responses to be unsupported and challengeable considering the evidence that exists and important enough to bring to your attention at this time.

Since no environmental impact report or endangered species assessment of the potential environmental impacts of any of the five development proposals exists in the record, any assertions that the site does not contain any protected or listed species of plants or animals of special concern are unsubstantiated. In fact, there is evidence, expert commentary, and

identification of protected species in close proximity to the subject property ([ATTACHMENT K](#)) that indicates such species may exist on the development site.

Evidence of protected species on adjacent land

Although the 1998 EIR performed for the Dominican College Development Plan did not directly assess the subject parcel (APN 15-165-03), it did include information on the areas immediately adjacent to the subject property and regarding habitat and wildlife in the general area.

For example, in *Section 4.3-6* of the EIR certified in 1998, it notes:

“The forest plant community provides perhaps the most important habitat type for native wildlife species. Mature trees provide cover and the complex vertical distribution of canopy and understory vegetation provides for a great diversity of wildlife. Wildlife commonly associated with forest habitat include dusky-footed woodrat, deer mouse, western flycatcher, chestnut-backed chickadee, plain titmouse, Hutton vireo, Wilson warbler, orange-crowned kinglet, rufous-sided towhee, fox sparrow, bushtit ringneck snake, California newt, and California slender salamander. Dead limbs and cavities in older trees often are used for nesting or dining. The abundant seed crops produced by oak, bay, poison oak, and toyon are an important food source for black-tailed deer, scrub and Steller jays, woodpeckers, and other species of wildlife.”

The Applicant’s SB 330 Preliminary App statements conflict with federal and state regulations

After a cursory review of the various development schemes submitted, wetlands ecology and biology expert Chris Rogers, in a memo to Save Dominican Valley, on July 12, 2023, ([ATTACHMENT C1](#)) noted the following:

“The Applications incorrectly state that no species of special concern are present on the project site. This is not supported by any recent or relevant documentation, such as a biological resources assessment conducted by a qualified biologist and supported by a review of background information and database queries, consistent with standard professional practice for projects requiring evaluation pursuant to the guidelines of CEQA. Procedures for conducting surveys for special status species are provided by USFWS, CDFW³ and CNPS. At a minimum, the applicant should be required to provide evidence that special-status species, or suitable habitat for special status species, or sensitive natural communities, are not present, including any species from the following categories:”

“Special-status plants listed as endangered, threatened, or rare or candidates for listing by the USFWS (CFR Title 50, Part 17) and/or the CDFW^{4,5}, as well as those with California Rare Plant Rank of 1B and 2, as listed in the California Native Plant Society Rare Plant inventory (CNPS 2023). Additional definitions are given in Section 15380 of the CEQA Guidelines.”

“Special-status animal species listed as endangered, threatened, or rare or candidates for listing by the USFWS (CFR Title 50, Part 17) and/or CDFW⁶. Other species having special status include the “special animals” listed in by CDFW⁷, and avian species protected under the Bald Eagle Protection Act (16 USC 668, et seq.) and the Migratory Bird Treaty Act (16 USC 703-711). The California Fish and Game Code provides protection for “fully protected birds” (§3511), “fully protected mammals” (§4700), “fully protected reptiles and amphibians” (§5050), and “fully protected fish” (§5515). Title 14 of the California Code of Regulations prohibits the take of amphibians (Chapter 5 §41), reptiles (Chapter 5 §42), and furbearers (Chapter 5 §460) that are listed under CESA, MBTA, or are “fully protected.” Additional definitions are given in Section 15380 of the CEQA Guidelines.”

“Special-status natural communities known to have limited distribution in the region, support special-status plant or wildlife species, or receive regulatory protection (*i.e.*, waters of the United States, covered under Section 404 of the Clean Water Act [CWA] and/or waters of the State,⁸ covered under Section 1600, et seq., of the California Fish and Game Code and the Porter-Cologne Water Quality

³ California Department of Fish and Wildlife (CDFW). 2018. *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. March 20. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>

⁴ CDFW. 2023. *State and Federally Listed Endangered, Threatened, and Rare Plants of California*. Biogeographic Data Branch, Natural Diversity Database. Quarterly publication. July. 26 pp. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline>

⁵ CDFW. 2023. *Special Vascular Plants, Bryophytes, and Lichens List*. Biogeographic Data Branch, Natural Diversity Database. Quarterly publication. July. 175 pp. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>

⁶ CDFW. 2023. *State and Federally Listed Endangered and Threatened Animals of California*. Biogeographic Data Branch, Natural Diversity Database. July. 37 pp. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>

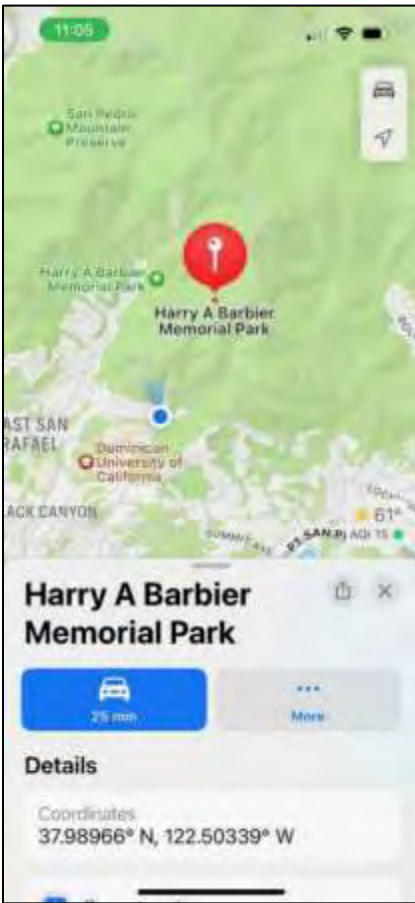
⁷ CDFW. 2023. *Special Animals List*. Natural Diversity Database. July. 137pp. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>

⁸ Waters of the State are defined as “any surface water or groundwater, including saline waters, within the boundaries of the state” California Water Code Section 13050(e). These include nearly every surface or ground water in California, or tributaries thereto, and include drainage features outside USACE jurisdiction (e.g., dry and ephemeral/seasonal stream beds and channels, etc.), isolated wetlands (e.g., vernal pools, seeps, springs and other groundwater-supplied wetlands, etc.), and storm drains and flood control channels.

⁹ CDFW. 2023. *California Sensitive Natural Communities*. Biogeographic Data Branch, Natural Diversity Database. June 1. 63 pp. Available online at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=153609&inline>

Control Act [Water Code Sections 13000–14920]). The California Natural Diversity Data Base (CNDDDB) ranks a number of natural communities in terms of their significance and rarity⁹ (CDFW 2023).”

Northern Spotted Owl Nesting in close proximity



In June of 2023, an active nesting site of Northern Spotted Owls, which are listed as a “threatened” species by the U.S. Fish & Wildlife Service, was geo-located in the Harry A. Barbier Memorial Park just off of Gold Hill Grade, less than .43 miles from the development site (ATTACHMENTS [G](#) and [H](#) maps).

Renée Cormier, a Senior Avian Ecologist at Point Blue Conservation Science Palomarin Field Station in Bolinas, California noted, “There are 3 fledglings and one mature Northern Spotted Owl in the photo” ([ATTACHMENT I](#))

The Applicant should be advised that due to the evidence of NSO nesting in close proximity to the development parcel, a thorough environmental impact report (EIR) assessment of potentially significant, unmitigated impacts from the development in Dominican Valley will need to be conducted as part of the final application review process.

Ms. Cormier suggests that the Applicant and the City consult the *Northern Spotted Owl Take Avoidance Analysis and Guidance for Private lands in California* for regulatory guidance about noise/disturbance restrictions and the buffer areas required at different times of the year.

[Phone image geo-location distance from development site](#)

This is significant because pursuant to the [2011 Northern Spotted Owl Survey Protocol](#), ([ATTACHMENT J](#)) a survey *must* be performed. This protocol requires one full year of surveys.

The Protocol notes,

“The U.S. Fish and Wildlife Service (Service) developed this 2011 NSO Survey Protocol (2011 Protocol) to promote consistent and scientifically rigorous procedures to survey for northern spotted owls (*Strix occidentalis caurina*; spotted owl) in areas where management activities may remove or modify spotted owl nesting, roosting or foraging habitat (excluding areas defined as dispersal habitat). This protocol should also be applied to activities that disrupt essential breeding activities and to activities that may

injure or otherwise harm spotted owl other than through habitat modification (e.g., noise disturbance, smoke from prescribed fire).”

This would suggest that during the CEQA phase of the project’s processing, the presence of other birds “of concern” will need to be evaluated in accordance with all federal, state, and local regulations *prior to any excavation, clearing, or any predevelopment work is performed on the subject property.*

Some examples of bird species that are likely to be present and nesting on the development site include, the Olive-Sided Flycatcher, which is on the California Department of Fish & Wildlife list of *California Birds of Special Concern*, is a summer resident and migrant from mid-April through early October. Its breeding season in California extends from early May to late August. It generally resides in conifer forests and eucalyptus trees, as are found on the development site.

Other birds “of concern” included in the appendices under the “Special Status Animals” under the “Birds” subsection, include Cooper’s hawk, Sharp-shinned Hawk, Golden Eagle, Burrowing Owl Black-shouldered Kite, California Horned Lark, Prairie Falcon, Peregrine Falcon, and the Loggerhead Shrike. More information can be found on the CDFW website at <https://wildlife.ca.gov/Conservation/SSC/Birds>

Similarly, listed/protected plants and botanical resources will need to be evaluated in accordance with all federal, state, and local regulations *prior to any excavation, clearing, or any work is performed on the subject property.* (ATTACHMENT L)

According to Shelly Benson, a plant ecologist at Benson Bio Consulting, the subject property will need a thorough study in addition to a survey in the spring in order to comply with the California Environmental Quality Act. She notes:

“While trees and shrubs were identifiable at the time of the survey, many herbs had senesced and were either unidentifiable or difficult to detect in the survey. In order to fully comply with survey requirements under the California Environmental Quality Act, a full review of special status plant species and sensitive natural communities with the potential to occur at the site would need to be conducted. Additional surveys in the spring would likely be needed in order to confidently determine whether any special status plant species occur at the site.”

“One to two surveys will occur in spring, likely in April or May, and one will occur in summer, likely in late July or August. Species with moderate or high potential to occur at the project site are: Mt. Diablo cottonweed (*Micropus amphibolus*), California Rare Plant Rank 3.2, Gairdner’s yampah (*Perideridia gairdneri* ssp. *gairdneri*), and California Rank Plant Rank 4.2” – July 24, 2023.

The 1998 EIR for–the Dominican College Development Plan also suggests that protected/threatened plant species may exist on the development site. However, seasonal evaluations would need to be done to determine the extent of such botanical resources before the excavation and clearing of the site.

According to the Watershed Alliance of Marin (July 11, 2023),

“In the eastern Marin watersheds, some perennial and intermittent creeks still have steelhead.”

Other species of concern are listed by the state as *Special Status Animals Invertebrates & Reptiles* that are known to inhabit the general area of the development site include California Freshwater Shrimp, California Tiger Salamander, Western Pond Turtle, California red-legged frog, and the Foothill yellow-legged frog.

Question 12.d: “Does the project site contain any recorded public easement, such as easements for storm drains, water lines, and other public rights of way?”

Comment 12d: The Applicant’s response is technically correct but misleading.

For each of the five proposals submitted, the Applicant checked off the box for “No.” In the description, they note,

“Stream on site. Drainage ditch along road. Explained on Page 5, Aerial Map provided with all detail to reference.”

Technically, the site does not contain any “public easement, such as easements for storm drains, water lines or other public rights of way.” However, this response fails to acknowledge significant restrictions that will affect development.

Not only is Sister’s Creek not a “ditch” but, as noted in this comment letter, it is a federally protected riverine wetland that requires a 25 foot wide natural buffer on both sides. Furthermore, there are arguable *prescriptive public access rights of way* along Gold Hill Grade and through the center of the property for the entire length of the property. See our comments under Question 12.a.ii. *Wetlands*, as defined in the *United States Fish and Wildlife Service Manual, Part 660 FW 2*, above, and the *California ECOAtlas California Aquatic Resource Inventory* ([ATTACHMENT C2](#)), and comments by attorney Len Rifkin comment under “Question 2. *Existing Uses*.”

Section 13: COMMENTS ON ISSUES THAT MAY MATERIALLY IMPACT THE ACCURACY AND COMPLETENESS OF THE APPLICANT’S SB 330 PRELIMINARY APPLICATION FORMS.”

13a. ROADWAY WIDENING IMPACTS AND FEASIBILITY

Comment 13a: Although SB 330 does not require this level of assessment at this phase, the Applicant should be made aware of the need to widen existing public roads to meet city standards because it may significantly impact the project’s financial feasibility.

Deer Park Avenue, Gold Hill Grade, and Margarita Avenue are all public roads of substandard width and in most instances without any shoulders or other emergency turn-outs or passing features. As such, these roadways already represent a public safety hazard for all residents and are not compliant with current city and state regulations.

The dramatic increase in traffic that will result from any of the five Preliminary Application plans submitted will exacerbate these hazards. None of the Applicant's proposals acknowledge the need for road widening in any locations (cut, fill, retaining walls, abutments, etc.) or the costs, which may impact the financial feasibility of the development. Road widening may also affect the Site Plans, housing unit sizes and locations, and setbacks in developable areas.

13b. Location and sizes of proposed housing units

Comment 13b: The locations, unit count, and designs of the proposed housing units are illegal under the City of San Rafael Zoning Code and various state and federal regulations, (see all comments under Questions 3, 4, 12.a.i, 12.a.ii, 12.a.vi, and 12.e, above) and will create un-mitigatable negative environmental impacts.

Acknowledging, again, that environmental impacts assessment comes at a later phase of the project review process, we are compelled to comment on this now because it relates to the fundamental site planning, housing locations, and housing density of the proposals submitted with the SB 330 Preliminary Application Forms.

In addition to our comments to *Question 2. Existing Uses; 3. Site Plans, 4. Elevations, 12.a.ii Additional Site Conditions, and 12.a.vi*, the Applicant has failed to consider the dramatic increases in impermeable surface area on the development site. Increased impermeability decreases water absorption into natural habitat and increases flow of runoff and occupant-related pollutants into the streams.

As noted by Senior City Planner, Matthew Pepin, in his June 29, 2023 memo ([ATTACHMENT A](#)):

“This project appears to create or replace more than 5,000 square feet of impervious area and therefore will be considered a regulated project. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements:”

- i) “Stormwater Control Plan – A short written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirements. (Needed to obtain planning permit.)
- ii) “Stormwater Facilities Operations and Maintenance (O&M) Plan – A short written document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. The maintenance plan shall include the manufactures recommended maintenance practices, designated parties

of responsible for upkeep, specify funding source for ongoing maintenance with provisions for full replacement when necessary and provide a site-specific inspection checklist. (Provide prior to occupancy)

- iii) “Operations and Maintenance Agreement – A formal agreement between the property owner and the city that shall be recorded with the property deed prior to occupancy. (Provide prior to occupancy)”

Compliance with these requirements will certainly result in revisions to the Site Plans, housing locations, and housing designs/typologies.

CONCLUSIONS:

Having reviewed the documents submitted by the Applicant and the requirements under local regulations, state law, federal law, and SB 330 Preliminary Application submission requirements we find that both the Applicant and the City of San Rafael made significant errors in submitting and responding to the Applicant’s SB 330 Preliminary Applications.

For the reasons enumerated in this comment letter, in our opinion, the City should inform the Applicant that the five *SB 330 Preliminary Applications* filed by the Applicant for the Project(s) known as PLAN 23-075, 23-077, 23-080, 23-081, and 23-086 are not eligible for processing under SB 330 because,

- (1) they contain incorrect and misleading information,**
- (2) they are not “consistent” with the City of San Rafael’s *General Plan* and *Zoning Code*, making them categorically ineligible for “streamlining” processing under *SB 330*, *The Permit Streamlining Act*, and *The Housing Accountability Act*,**
- (3) they violate local, state, and federal regulations regarding wetlands, fire safety, and WUI development requirements, and**
- (4) they are categorically ineligible for “streamlining” processing under *SB 330*, *The Permit Streamlining Act*, and *The Housing Accountability Act* because the San Rafael *General Plan* specifically requires that any application for the development of the subject parcel will require a Master Use Permit Amendment and Zoning Code Amendment, under the *Neighborhood Element, Program NH-2.14B*.**

Respectfully submitted,

Save Dominican Valley

P.O. Box 4135

San Rafael, CA 94913

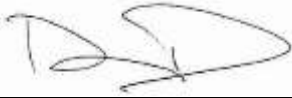
415-448-6292

Email: info@savedominicanvalley.com

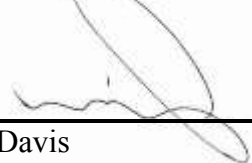
By the Save Dominican Valley Steering Committee:



Jean-Pierre Guittard



Drusie Davis



Jim Davis



Oliver Ralph



Claudia Moeller



Barbara Laflin Treat

cc: Alicia Giudice, Community Development Director
(community.development@cityofsanrafael.org)

cc: Robert Epstein, City Attorney (rob.epstein@cityofsanrafael.org)

LIST OF ATTACHMENTS:

[ATTACHMENT A - 06.29.23 Matthew Pepin Memo](#)

[ATTACHMENT B - San Rafael Fire WUI Map](#)

[ATTACHMENT C - NATIONAL WETLANDS INVENTORY MAP](#)

[ATTACHMENT C1 - C. Rogers - Dominican Valley Comment Memo](#)

[ATTACHMENT C2 - ECOAtlas California Aquatic Resource Inventory](#)

[ATTACHMENT D - FEMA National Flood Hazard Viewer APN 015-163-03](#)

[ATTACHMENT E1 - Intermittent streams riverine wetlands with setbacks](#)

[ATTACHMENT E2 - Intermittent streams riverine wetlands with setbacks](#)

[ATTACHMENT E3 - Intermittent streams riverine wetlands with setbacks](#)

[ATTACHMENT G - Mobile Phone Image 2023-07-19 at 11.05.21 AM-1](#)

[ATTACHMENT H - NSO Nesting Distance to DV LLC Site](#)

[ATTACHMENT I - NSO Nesting - Adult + 2 Fledglings](#)

[ATTACHMENT J - NSO Protocols](#)

[ATTACHMENT K - CNDDDB LISTED ENDANGERED AND THREATENED ANIMALS OF CALIFORNIA 1](#)

[ATTACHMENT L - CNDDDB LISTED ENDANGERDD THREATENED AND RARE PLANTS LIST](#)



October 3, 2023

By E-Mail

Hon. Mayor Kate Colin
Members of the City Council
City of San Rafael
c/o City Clerk, city.clerk@cityofsanrafael.org
1400 Fifth Avenue, Room 209
San Rafael, CA 94901

Cc: Alicia Giudice, Community Development Director
(community.development@cityofsanrafael.org)
Cc: Robert Epstein, City Attorney (rob.epstein@cityofsanrafael.org)

Re: Applicability of the 'Builder's Remedy' regarding the five SB 330 Preliminary Applications for residential development submitted to the City of San Rafael by Dominican Valley LLC for the property at Magnolia Avenue at Deer Park Avenue in San Rafael (APN 015-163-03).

Dear Mayor Colin and Members of the City Council,

We are writing to correct misstatements of facts and mischaracterizations of our September 8, 2023 letter, regarding the development proposals submitted by Dominican Valley LLC, as described in the September 18, 2023 Marin IJ article by Richard Halstead, "[San Rafael Group Challenges 'Builder's Remedy' Housing Plan.](#)" (Copy attached) which we feel raise confusion about applicable laws that need to be clarified.

As you know, our September 8th letter presented our concerns about the processing of the five SB 330 Preliminary Application development proposals submitted by Dominican Valley LLC. However, in that letter, we did not comment on the 'builder's remedy.' We feel obligated to reach out to you as our elected officials because the City's responses noted in that article suggest that City officials may also share some misunderstandings about the Housing Accountability Act and when the 'builder's remedy' is applicable.

Perhaps the most concerning statements made in the Marin IJ article are in its final, summary paragraph, which states,

“While builder's remedy projects are not subject to denial by local elected officials, they are required to comply with the California Environmental Quality Act. Some legal experts, however, have questioned whether a jurisdiction could legally deny a builder's remedy project based on the information reported in a CEQA review.”

Both of these statements contradict state housing statutes and The Housing Accountability Act, in particular. (The “HAA”) In truth, there are several reasons the City can deny the Dominican

Valley LLC project proposals claiming the ‘builder’s remedy’ and credible legal experts have not “questioned whether a jurisdiction could legally deny a builder’s remedy project based on the information reported in a CEQA review.” (Note: No Appellate Court has addressed this issue, to date.)

Let’s begin with the claim that “builder’s remedy’ projects are not subject to denial by local elected officials.”

In addition to failing to meet the requirements for low and moderate-income housing noted by the City’s responses to the Dominican Valley LLC SB 330 Preliminary Applications, there are other reasons for denial of the ‘builder’s remedy’ that apply in this instance.

According to Section 65589.5 (d) of the Housing Accountability Act,

“65589.5 (d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, *unless it makes written findings, based upon a preponderance of evidence in the record, as to one of the following:*” [Emphasis added]

BASIS OF DENIAL #1:

THE DEVELOPMENT PROPOSAL CONSTITUTES A THREAT TO PUBLIC HEALTH AND SAFETY

The Builder’s Remedy can be denied under Section 65589.5 (d)(2), which states that a project can be denied or conditioned if it has an adverse impact on public health and safety. At this time, nothing constitutes a greater adverse impact on public health and safety than the threat of wildfires in very high fire hazard areas in California. This threat is so severe that in today’s market, any homes built in any areas designated as very high fire severity zones will pay significantly higher insurance rates or be unable to qualify for homeowner’s insurance at all.

Section 65589.5 (d)(2) states that a project can be denied if,

“65589.5 (d)(2): The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

“As used in this paragraph, a specific, adverse impact means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written

public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” [Emphasis added]

The intent of the law here is clear. It is even repeated multiple times in the regulations (See Section 65589.5(j)(1)(A).) We, again, point you to the San Rafael Code Wildlands Urban Interface (“WUI) designation given to the Dominican Valley LLC property, and the ordinance’s vegetation management, ground clearing, and setback requirements ([Chapter 4.12. Wildland-Urban Interface – Vegetation Management Standards](#) of the San Rafael Fire Code), as authorized and provided for under *California Government Code, Section 51179*, which modifies the determinations under Section 51178.

As noted in our September 8th letter, the San Rafael Code describes the WUI as “**a designation of a very high fire severity zone** as provided in Government Code Section 51179” and requires developers “**to create defensible space around structures** that will minimize the spread of fires from wildlands to structures, from structures to wildlands, and from structures to structures.” (i.e., ground clearing/ground hardening)

“Defensible space” is defined in the Code as an

“area **one hundred feet (100’) around a structure** where vegetation management has been conducted to reduce the potential for transfer of fire between the structure and the adjacent wildland, the adjacent wildland and the structure, or from structure to structure.” [Emphasis added]

The very existence of the Wildlands-Urban Interface section in the San Rafael Code constitutes a memorialized “finding” by the City that enforcement of vegetation management and structure’s setback provisions are necessary to protect the health and safety of the community; meaning that any failure to do so – as all of the Dominican Valley LLC proposals require -- would constitute a threat to that health and safety.

BASIS OF DENIAL #2:

THE DEVELOPMENT PROPOSAL VIOLATES STATE AND FEDERAL LAW

Section 65589.5 (d)(3) states that a project can be denied if,

“65589.5 (d)(3): The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.” [Emphasis added]

As we noted in detail, in our letter of September 8, 2023, all of the Dominican Valley LLC development proposals violate state and federal law about “waters of the state” and the wetlands permitting provisions of the Clean Water Act. To qualify for the ‘builder’s remedy’ development

proposals *cannot violate any state or federal law* and the requirements of those laws are not subject to waivers, concessions, or local variances.

The subject property is traversed by no less than six “Riverine” Wetlands/streams and tributaries, a designation that is subject to both federal and state regulations in addition to the San Rafael Zoning Code setback requirements.

The Dominican Valley LLC development proposals appear to violate the riverine wetlands protections noted in the U.S. Fish & Wildlife Service *National Wetlands Inventory Map*, the California ECO/Atlas *of the California Aquatic Resource Inventory*, the restrictions found in the State [Wetland and Riparian Area Monitoring Plan](#) (WRAMP) and the California [Wetland and Riparian Area Protection Policy](#) (WRAPP), and the San Rafael Municipal Code’s streams setback/protection requirements.

BASIS OF DENIAL #3:

THE DEVELOPMENT PROPOSAL RESULTS IN SIGNIFICANT, ADVERSE, UNMITIGATED ENVIRONMENTAL IMPACTS UNDER CEQA

The authority of the California Environmental Quality Act – CEQA, in this instance, is uncontestable. In Section 65589.5 (e) of The Housing Accountability Act, it states,

“Section 65589.5 (e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code).

“Neither shall *anything in this section* be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise **complying with the *California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code*”**
[Emphasis added]

Similarly, in addition to the numerous environmental assessment needs described in our letter of September 8, 2023, other provisions for an exemption from CEQA under the HAA are not met by the project proposals. For example, per **Section 65589.5 (h)(6)D(i)(I)(ib)**, an exempt project cannot be located in a “very high fire hazard zone.”

As such, the question of whether the Save Dominican Valley LLC development proposals are subject to CEQA assessment is most certainly, yes.

BASIS OF DENIAL #4:**THE CITY WAS IN “SUBSTANTIAL COMPLIANCE” WITH STATE HOUSING LAW AT THE TIME A DEVELOPMENT PROPOSAL IS SUBMITTED**

According to the “[Housing Element Review and Compliance Report](#)” on the Department of Housing and Community Development website, the City of San Rafael is presently in compliance with state housing law and has been since the date of the adoption of its Housing Element on May 15, 2023.

Therefore, as noted in the “CHRONOLOGY OF EVENTS,” below, the City of San Rafael was “substantially compliant” with state housing law at the time that Dominican Valley LLC submitted its five SB 330 Preliminary Application development proposals. And as such, the “builder’s remedy” does not apply.

According to Section 65589.5 (d)(5) of the Housing Accountability Act and project can be denied if,

“65589.5 (d)(5): The development project or emergency shelter is inconsistent with both the jurisdiction’s zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.”
[Emphasis added]

The record shows that this was the case regarding the five project proposals submitted by Dominican Valley LLC.

The inadequacy of the City’s response to the developer’s demands.

On July 28, 2023, the Community Development Department responded to the five pre-application proposals submitted by the Applicant: Proposal A, submitted June 7, 2023; Proposal B, submitted June 8, 2023; Proposal C, submitted June 12, 2023; Proposal D, submitted June 13, 2023; and Proposal E, submitted June 22, 2023.

In 4 of the 5 proposals (Proposals B, C, D, E), the Applicant proposed proceeding under “Government Code section 65589.5(d) *et seq.*,” the “builder’s remedy.” In the City’s responses to each of those proposals, under “Deficiencies,” they only point out that 4 of the 5 proposals do not qualify for the builder’s remedy based on the required percentages of affordable/low-income units provided. However, as argued above, this response was grossly inadequate.

The City should have informed the developer that, based on the evidence in hand, at that time, (a) None of the pre-application proposals qualified for the ‘builder’s remedy’ for all of the reasons noted, above, and (b) None of the pre-application proposals qualified for the ‘builder’s remedy’ because the ‘builder’s remedy’ only applies if a city’s Housing Element is not

substantially compliant with state housing law at the time of the submission of an applicant's proposals.

The Chronology of Events, shown below, shows that the City of San Rafael was "substantially compliant" with state housing law as of May 15, 2023, when it formally adopted its Housing Element because the City's final version of the Housing Element was subsequently certified by the Department of Housing and Community Development (HCD), *with only minor changes that did not in any way impact the Applicant's proposals*. As such, at the time the Applicant submitted their proposals (beginning on June 7, 2023), the City of San Rafael *was* in fact in "substantial compliance" with state housing law.

The definition of "substantial compliance" is a "matter of law," not opinion

The determination of whether a city's Housing Element is or is not "substantially compliant" with state housing law is not delineated under state law and is not up to the City, HCD, or the developer. **It can only be decided by the courts.**

Even YIMBY Law, the staunchest opponent of local control of planning and zoning, admits that the determination of whether or not a Housing Element adopted by a city is "substantially compliant" with state housing law is a "matter of law." They state that **"only a court can ultimately decide whether a housing element "substantially complies."** (See *Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1191.) [Emphasis added]

Whether or not HCD has certified a Housing Element and the date of that certification **are also not relevant facts in the court's determinations. The courts are free to disregard HCD's opinions and determinations.**

In sum, the City of San Rafael has been operating under a substantially compliant Housing Element since the date of its adoption, May 15, 2023, before Dominican Valley LLC submitted its preliminary project applications. **Therefore, the 'builder's remedy' cannot be applied to or enforced for any of the Dominican Valley LLC development proposals.**

CHRONOLOGY OF EVENTS:

The following chronology of events substantiates that the City of San Rafael was operating under a substantially compliant Housing Element at the time when the Dominican Valley LLC submitted its SB 330 Preliminary Applications for its 5 development proposals.

May 15, 2023

The City "adopts" its Housing Element, making its "finding" that it is "substantially compliant" with state housing law.

May 17, 2023 - Housing Element sent to HCD; May 18 HCD acknowledges receipt.

The City submits Housing Element to HCD for certification.

June 1, 2023

HCD requests *minor revisions* to the Housing Element, all of which the City accepts and *none of which impact* the applicant's subsequent proposals. Their Housing Element, which was adopted on May 15, 2023, was found to be "substantially compliant" with state housing law.

June 7, 2023

The final version of Housing Element is "published."

Developer begins to submit proposals, starting June 7, 8, 12, 13, and 22.

June 22, 2023

HCD notifies the City of San Rafael that it has "certified" the final version of the Housing Element.

CONCLUSIONS

Based on the facts and circumstances described herein, the City is clearly not subject to the 'builder's remedy' with respect to the Dominican Valley LLC development proposals.

We urge the City Council to take action before more of the public's time and taxpayer's money is wasted. In our opinion, time is of the essence because we have it from reliable sources that the developer intends to only rely on the City's very limited response to their SB 330 Preliminary Applications (that the only 'builder's remedy' deficiency was the lack of low-income affordable units) as guidance and barring that has a green light in crafting their final application.

We consider the City's failure to inform Dominican Valley LLC of the disqualification of its five proposals to qualify for the 'builder's remedy,' in their responses to the developer's SB 330 Preliminary Applications, a failure to represent the best interests of the community and to ensure the protection of the health and safety of the residents of San Rafael. It is of no benefit to the community for the City not to inform the developer of all of the requirements under Section 65589.5, now, instead of providing the developer with fallacious grounds to claim the builder's remedy or to allege similar entitlements in the future.

Respectfully submitted,

The Save Dominican Valley Steering Committee

Save Dominican Valley

P.O. Box 4135

San Rafael, CA 94913

415-448-6292

Email: info@savedominicanvalley.com

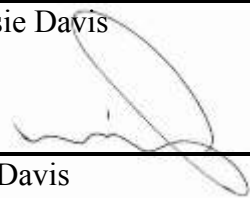
By:



Jean-Pierre Guittard



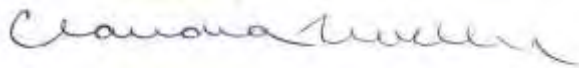
Drusie Davis



Jim Davis



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Claudia Moeller



Barbara Laflin Treat

cc: Alicia Giudice, Community Development Director
(community.development@cityofsanrafael.org)

cc: Robert Epstein, City Attorney (rob.epstein@cityofsanrafael.org)

Attachment 4

Attachment 4

Attachment 4

Attachment 4

Attachment 4



January 4, 2024

Ray Cassidy
Dominican Valley LLC
PO Box 150173
San Rafael, CA 94915

Sent via email:

marindevelop@gmail.com

Re: File No: CDR23-002, ED23-062, TS23-001 (PLAN23-081)

Development Application for Dominican Valley Housing Development including Conceptual Design Review, Environmental and Design Review, and Tentative Subdivision Map Application (APN 015-163-03)

Project Description: Development Application for a major subdivision and residential development of a 20.79-acre site. The proposed project involves subdividing the property into 50 parcels and constructing 64 residential dwelling units, including 27 single-family homes, 17 townhomes, 14 Junior Accessory Dwelling Units (JADUs) attached to the townhomes, and 6 Duplex units.

Dear Mr. Cassidy:

The Community Development Department is in receipt of your application submitted on December 6, 2023, for a proposed housing development project at Magnolia Avenue and Deer Park Avenue (APN 015-163-03) in San Rafael.

Pursuant to Government Code section 65943 et seq., this letter informs you that the above referenced application is INCOMPLETE. The elements needed to make the application complete are detailed in the following sections of this letter. To facilitate the development review process, please include a detailed response letter with your resubmittal that addresses all items contained in this letter. Similarly, please provide written responses to the items identified as incomplete by other reviewers.



ITEMS REQUIRED TO COMPLETE APPLICATION

PLANNING DIVISION

(Project Planner: Kavitha Kumar, kavitha.kumar@cityofsanrafael.org)

Required Entitlements:

1. GENERAL PLANNING APPLICATION

The City requires, as a condition of filing a planning and/or development application, that an applicant agrees to the indemnification language set forth in the City's General Planning Application. You have indicated that you are "signing the Indemnification Provision under protest." Please remove said statement and resign and resubmit the General Planning Application.

2. CONCEPTUAL DESIGN REVIEW

Design Review Board (DRB) Meeting to review and formulate recommendations on all major physical improvements requiring environmental and design review permits, and to provide professional design analysis, evaluation and judgment as to the completeness, competence and appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on applicable objective design standards adopted by the City Council. (SRMC 2.216.122.).

Incomplete Items¹

- A. Colors & Materials Exhibit. Provide colors and materials exhibits for each unit type included in this formal application.
 - B. Site Photos. Provide photos to show the entire site and all adjacent buildings and structures for context. Show the photo vantage points on a key map.
- ##### **3. MAJOR ENVIRONMENTAL AND DESIGN REVIEW PERMIT**
- Planning Commission Meeting to review the details of the overall site plan, architecture, landscaping, building design, and other site improvements for the project.

¹ See Conceptual Design Review Permit & Pre-Application webpage, <https://www.cityofsanrafael.org/conceptual-design-review-permit-pre-application-handout/>



Incomplete Items²

- A. Site Plan. The site plan must show the following:
 - i. Existing Site Conditions - show all existing easements on the site plan and on all relevant plans.
 - ii. Adjacent Properties - include primary buildings, accessory structures, and uses on parcels adjacent to the subject property for context.
- B. Vicinity Map. Mark the surrounding features and prominent public viewpoints and view sheds (if applicable).
- C. Project Data. Provide all required information per [Section 14.12.030](#) of the Municipal Code on Sheet A1 of the Architecture Plan set. Specifically, provide setbacks from all property lines, proposed lot area, average lot width, proposed maximum building height, and proposed maximum stepback height for each proposed lot; and proposed gross square footage for each unit type. This information can be added to the table on Sheet A1.
- D. Roof Plan. Provide a roof plan that shows property lines, outline of building footprints, direction and slope of drainage, location of drainage collectors, rooftop structures (i.e., vents, equipment, screening, access), material, ridge elevations, roof levels and slopes for each unit.
- E. Floor Plans.
 - i. Provide gross square footage for each unit type on Sheets A2 through A8 of the Architecture Plan set (only net square footage is provided on these sheets), and
 - ii. Provide ALL external dimensions for each floor plan for all unit types. This information is required to verify gross square footage of each unit type.
- F. Landscape Plan.
 - i. Provide information on the soil characteristics of landscaped areas. This can be on a separate sheet in the Landscape Plan set.
 - ii. Provide a table on Sheet L1 of the Landscape Plan set with details of the 33 significant native trees proposed to be removed Per Section IV.A2(2)(a) of the [Hillside Design Guidelines](#).

² See General Planning Permit Submittal Requirements, Section 3 – Environmental & Design Review Permit Applications: Plan Set, <https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/04/General-Planning-Permit-Application-Submittal-Requirements-March-2023.pdf>



- iii. Provide a revised drawing in the Landscape Plan set showing replacement trees at the ratio of 3:1 for the proposed removal of significant native trees per Section of the IV.A2(2)(b) of the [Hillside Design Guidelines](#).
- iv. Revise the arborist report to demonstrate the health of all the native trees proposed to be removed.

G. Elevations.

- i. Proposed Elevations - include all sides of structure(s) and existing features (windows, doors, decks, etc.) with height and length measurements. Include the height of stepbacks per [Section 14.12.030\(A\) of the Municipal Code](#).
- ii. Proposed Exterior Details – including the location of light fixtures.
- iii. Provide side elevations for unit type A on Sheet A11 of the Architecture Plan set.

H. Sections and Profiles. Provide individual sections for unit types D1 and D2 on Sheet A10 in the Architecture Plan set.

I. Grading Plan. Identify and graphically show areas of cut and fill in a verifiable manner on Sheet C4 of the Civil Plan set.

J. All objective requirements and standards of the [Hillside Design Guidelines for Residential Development Projects](#) (Guidelines) apply to the development of this project. Review the guidelines and demonstrate compliance with the requirements in a separate memo and reference plan sheets where the guidelines have been incorporated.

K. Provide a grading and erosion control plan consistent with the requirements outlined in Section IV. A3 of the above Guidelines.

L. Show building envelopes established for each lot consistent with Section IV. A4 of the above Guidelines.

4. DENSITY BONUS

A. Density Bonus. Per [Section 14.16.030](#), submit a Density Bonus Application for a density bonus and/or concessions/incentives or waivers for Residential Development Projects. Application for a density bonus and/or concessions or incentives for a residential project shall be made by filing a separate application along with the following information (See [Resolution 14891](#) for specific references to items listed, below):

- i. Fees: \$6,280 are required to be paid.
- ii. Density Bonus submittal checklist: This checklist shall include, but not be limited to the following information: Property location; lot size,



zoning allowable residential density, and allowable number of base units;

- iii. Density Bonus eligibility table: This table shall include: the number of market rate units in the project; the number of affordable housing units proposed & level of affordability for each of the designated affordable units; the number of other eligible units (senior housing, supportive housing, etc.); number of density bonus units requested; total allowable density bonus (see Table 3 of City Council Resolution);
- iv. Project plans showing the total number of units, the number and location of the affordable units and the number and location of the proposed density bonus units;
- v. Parking Ratios Table: this table shall include the total number of proposed parking and the total number of required parking spaces for affordable housing units or for special projects;
- vi. List of requested Concessions/Incentives: The application shall include the total number of concessions or incentives being requested; the total number of concessions or incentives for which the project is eligible for by the City Council Resolution Table 4; a list of the requested concessions or Incentives; written financial documentation that demonstrates how the requested concessions/incentives result in identifiable and actual cost reductions. The written statement shall include the actual cost reduction achieved through the concession/incentive and evidence that the concession/incentive allows the applicant to develop affordable housing at the specified affordable rents/sales price; The cost of reviewing any required financial data submitted as part of the application in support of a request for a concession or incentive, including, but not limited to, the cost to the city of hiring a consultant to review said data, shall be borne by the applicant;
- vii. A list of requested waivers or reduction of development standards. Any request for waivers or reduction of development standards shall be accompanied with evidence that the development standards for which a waiver is requested would have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by Government Code Section 65915;
- viii. If a density bonus is requested for a qualified land donation, the application shall show the location of the land to be dedicated and provide evidence that the requirements of Subsection C.g. of the City Council Resolution have been met, thus entitling the project to the requested density bonus;



- ix. If a density bonus is requested for construction of a childcare facility the application shall show the location and square footage of the proposed facility and provide evidence that the requirements of Subsection C.f. of the City Council Resolution have been met, thus entitling the project to the requested density bonus.

5. **MAJOR SUBDIVISION MAP (TENTATIVE MAP)**

Public hearing before the Planning Commission to review a Tentative Map Application to subdivide the site into 50 parcels. Pursuant to Sections: [15.02.020 - Application filing for tentative map](#), 15.02.030 - [Information on tentative map](#), [15.02.040 - Information in statement](#), and [Chapter 15.07 - STANDARDS FOR HILLSIDE SUBDIVISIONS](#), the following items are necessary to complete the application process for a Major Subdivision.

Incomplete Items³

- A. Provide a detailed description of the proposed land division on the cover sheet, including clearly marked developed and undeveloped areas.
- B. Provide a written statement of intent containing the information set forth in SRMC Section 15.02.040;
 - i. A description of the existing use(s) of the subject property;
 - ii. A statement of the proposed improvements including public utilities, water supply and sewerage disposal, how these improvements are to be made or installed, and the estimated timing of when such improvements are to be completed.
 - iii. A description of proposed public areas and dedications if any are proposed.
 - iv. A description of proposed restrictions, covenants, or easements, if any are proposed.
 - v. A list of any and all requests for exceptions (Chapter 15.01.120) from the provisions of this title and a written statement citing the justification and reasons for approval of these exceptions.
- C. Include the following on the Tentative Map:
 - i. The locations, names, of all roads, streets in the proposed subdivision and along the boundaries.

³ See Subdivision Submittal Requirements webpage, <https://www.cityofsanrafael.org/subdivision-submittal-requirements/>



- ii. The location and character of all existing or proposed sanitary sewers and storm drains in the subdivision or on adjoining and contiguous highways, streets, and roads.
 - iii. The approximate widths, location, and purpose of all existing or proposed easements or areas of use restriction on the subject property or on land contiguous to the proposed subdivision.
- D. Provide a biological survey, which classifies portions of the site by their degree of risk of plant communities from wildland fires and establishes guidelines for development in riparian and watershed areas.

6. **ZONING AMENDMENT (REZONING)**

Although the current zoning for the site is Planned Development (PD), the current application requests changes in the contents of approval of a PD zoning and development plan and shall be treated as a zoning amendment (rezoning). Pursuant to [Section 14.07.060 - Required plans and materials](#), in addition to the requisite fee listed below, the following items are necessary to complete the application process for a rezoning.

Incomplete Items⁴

- A. A deposit fees of \$17,889 is required to be paid.
- B. Provide a map showing proposed district boundaries and the relationship of the district to uses and structures within a three hundred foot (300') radius of the district boundaries;
- C. Provide a map or aerial photo of the proposed district and three hundred feet (300') beyond its boundary showing sufficient topographic data to indicate clearly the character of the terrain; ridgelines and creeks; the type, location and condition of mature trees and other natural vegetation; and the location of existing development;
- D. The proposed pattern of land use, with acreage, residential density or commercial intensity calculations. This shall include the total square footage of each type of nonresidential use proposed in order to assess parking and traffic impacts;
- E. A site plan showing proposed street and lot patterns, and the location of all proposed buildings, structures, and other general site improvements;
- F. Clearly provide proposed setbacks, yard areas and height limits for each proposed lot.

⁴ See SRMC [Section 14.07.060 - Required plans and materials](#)



- G. Provide plans showing location, grades, and widths of all streets; location and size of all utilities; drainage structures; parking areas; walkways; and other improvements.
- H. Provide a parking plan showing proposed parking layout and provisions for bicycle parking/storage.
- I. A topographical map with average site slopes, or slopes of proposed lots, if applicable, and slopes of proposed streets;
- J. Geotechnical data (preliminary geologic report, geotechnical investigation report, and/or hazardous waste investigation report, as per general plan appendices, geotechnical review matrix);
- K. Submit a Traffic Study per the requirements noted in the chapter referenced above.
- L. Submit a description of all open space and/or undeveloped areas and a statement indicating their intended disposition (i.e., deeded to property owners, dedicated to city, etc.), if applicable.
- M. Submit an enumeration of deviations between typical zoning ordinance standards for such uses and the proposed plan; if applicable.
- N. Submit a Phasing Plan, if applicable.

7. **GENERAL PLAN AMENDMENT**

Planning Commission & City Council Meeting to review the General Plan Amendment as the project proposal does not meet the applicable maximum height and density limit set by the General Plan. In addition to requisite fee below, please submit the following items:

Incomplete Items⁵

- A. A deposit fees of \$17,889 is required to be paid.
- B. A metes and bounds description of the property.
- C. Copies of a map (minimum scale 1" = 20' and including a north arrow) showing:
 - i. Outline of the property to be rezoned/amended.
 - ii. All existing improvements (structures, fences, parking, driveways, etc.)

⁵ See Rezoning or General Plan Amendment webpage, <https://www.cityofsanrafael.org/rezoning-general-plan-amendments/>



- iii. Designation of existing land use (residence, commercial building, etc.)
 - iv. Designation(s) of present zoning and/or general plan.
 - v. Small scale location map with present zoning and use of all immediately adjacent properties.
- D. Statement of reasons for requesting a General Plan amendment.
- E. Typed copy of proposed General Plan modifications.

Should you have any questions regarding this list of planning division items, please do not hesitate to contact me at Kavitha.Kumar@cityofsanrafael.org.

In addition please see the attached departmental review comments from the Fire Department, Public Works Department and the Sanitation District regarding this project. While some items are noted to be courtesy in nature in each memo, please note that the Public Works Department has a number of items that rise to the level of completeness and will need to be addressed in order to determine that the project is complete.

Sincerely,

Kavitha Kumar

Kavitha Kumar, Project Planner

cc: Margaret Kavanaugh-Lynch, Planning Manager

Attachments include departmental comments from:

1. Fire Department
2. Public Works
3. Sanitation District

CITY OF SAN RAFAEL

SAN RAFAEL, CALIFORNIA

INTER-DEPARTMENTAL MEMORANDUM

DATE: December 22, 2023
TO: Planning File
FROM: Bob Sinnott, Fire Prevention
SUBJECT: Planning File #PLAN23-081 -
54 units Dominican Site - SB330 (e) 54 Units

This memorandum is intended to assist the applicant in determining the feasibility of this project and in the preparation of construction documents regarding compliance with the California Code of Regulations Title 24 and local ordinance requirements. After review of the application and plans provided for this project, the **Fire Prevention Bureau** has the following comments:

1. The design and construction of all site alterations shall comply with the 2022 California Fire Code, current NFPA Standards, and all applicable City of San Rafael Ordinances and Amendment.
2. A Fire Construction Plan will be required for this project. (See attached)
3. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems:
 - a. Fire Apparatus Access & Operations Plan (see attachment)
 - b. Fire Sprinkler plans
 - c. Fire Standpipe plans
 - d. Fire lines serving fire hydrants
 - e. Fire Alarm plans (depending on if this a complex)
 - f. Vegetation Management Plan
4. A wildland urban interface fire technical evaluation is required to determine the scope of vegetation management required to ensure the safety of the proposed construction as well as surrounding properties and evacuation routes. This report to be submitted as an attached to 3(f).
5. The fire apparatus access roadway must conform to all provisions in CFC Section 503 and Appendix D.
 - a. Designated fire apparatus access roads.
 - b. Red curbs and no parking fire lane signs.
 - c. Fire hydrants.
 - d. Fire Department Connection (FDC).
 - e. Double detector check valve.
 - f. Street address sign.
 - g. Recessed Knox Box
 - h. Fire Alarm annunciator panel.
 - i. NFPA 704 placards.

- j. Provide a note on the plan, as follows: The designated fire apparatus access roads and fire hydrant shall be installed and approved by the Fire Prevention Bureau prior construction of the building.

6. A Knox Box is required at the primary point of first response to the building. A recessed mounted Knox Box # 3200 Series is required for new buildings; surface mount for all others. the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72” to 78” above finish grade; show the location on the plans.
<https://www.knoxbox.com/commercial-knoxboxes/>

7. A Knox key switch is required for driveway or access road automatic gates.
<https://www.knoxbox.com/gate-keys-and-padlocks/>

8. On site fire hydrants will be required. Residential model: Clow 950. Commercial Model: Clow 960. The Prevention Bureau will identify the locations.

9. When additions or alterations are made, the nearest existing fire hydrant shall be upgraded. Residential model: Clow 950.

10. Fire flow must meet the requirements of the 2022 California Fire Code and all related National Fire Protection Association Standards.

11. When a building is fully sprinklered all portions of the exterior building perimeter must be located within 250-feet of an approved fire apparatus access road.
 - a. The minimum width of the fire apparatus access road is 20-feet.
 - b. The minimum inside turning radius for a fire apparatus access road is 28 feet.
 - c. The fire apparatus access road serving this building is more than 150-feet in length; provide an approved turn-around. Contact the Fire Prevention Bureau for specific details.

12. If the building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building.
 - a. The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.
 - b. The minimum unobstructed width for an aerial fire apparatus access road is 26-feet.
 - c. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building.

13. Fire lanes must be designated; painted red with contrasting white lettering stating, “No Parking Fire Lane” A sign shall be posted in accordance with the CFC Section 503.3 and to the satisfaction and approval of the San Rafael Parking Services Division.

14. Provide address numbers plainly visible from the street or road fronting the property. Numbers painted on the curb do not qualify as meeting this requirement. Numbers shall contrast with the background and shall be Arabic numbers or letters. Numbers shall be internally or externally illuminated in all new construction or substantial remodels. Number sizes are as follows: For residential – 4” tall with ½” stroke. For commercial – 6” tall with ½” stroke. Larger sizes might be

required by the fire code official or in multiple locations for buildings served by two or more roads.

15. Contact the Marin Municipal Water District (MMWD) to make arrangements for the water supply serving fire hydrants and the fire protection systems.

These preliminary comments could change as the project progresses through the review processes.



City of San Rafael - Fire Construction Requirements

Please review, sign, date and return this form to the Fire Prevention Bureau

Project required to comply with CA Fire Code **FIRE SAFETY DURING CONSTRUCTION AND DEMOLITION**

1. Fire apparatus access roads to be “all weather” and approved prior to first lumber delivery.
2. Fire lanes, signage, red curbing required when construction exceeds second story.
3. Fire hydrants installed & operational prior to first lumber delivery.
4. Fire extinguishers mounted every 75’ of travel distance on each floor under construction and adjacent to all storage sheds and inside all temporary office structures.
5. Approved Fire Department standpipe required during construction if building over 30’ in height.
6. Means of egress must be clearly marked and kept clear at all times from the highest point of the building to public way.
7. 24 hour emergency contact information posted on job site in visible location.
8. Temporary heating equipment to be listed and labeled - and shall be used in accordance with the listing and manufacturer’s instructions.
9. Smoking shall be prohibited except in approved locations. NO SMOKING signs shall be posted.
10. Combustible waste shall not be allowed to accumulate within building or on job site grounds.
11. An approved Fire Watch shall be required during all non-work periods when the project exceeds three stories in height. Refer to Fire Watch form.
12. The owner is responsible for the development, implementation and maintenance of a written plan establishing a fire prevention program at the project site applicable throughout all phases of construction. SUBMIT TO THE FIRE PREVENTION BUREAU FOR APPROVAL.
13. Construction gates to have Knox padlocks. www.knoxbox.com
14. Deferred Fire Prevention Bureau permits required for <https://www.cityofsanrafael.org/fire-prevention-inspection/>
 - a. Fire sprinkler system
 - b. Fire underground main
 - c. Temporary standpipe system
 - d. Fire alarm system
 - e. DAS Emergency Responder Coverage System
 - f. Standpipe system
 - g. Commercial cooking hood system
 - h. Temporary membrane structures and tents over 400 square feet
 - i. Hot work
 - j. Cutting/Welding Operations

I understand and acknowledge the provisions of this form:

Owner/Project Manager

Date



City of San Rafael - Fire Apparatus Access & Operations Plan

DEFERRED FIRE PREVENTION PERMIT REQUIRED

Some or all of the elements listed below could apply. Please include all applicable information pertaining to your project on the Fire Apparatus Access Plan.

1. Emergency vehicle access (refer to separate handout). (CFC 503 and Appendix D)
 - a. Note road width and turning radius.
 - b. Angle of approach and departure.
 - c. Turn around dimension.
2. Fire flow based on building type and size. (CFC 507)
3. Fire Sprinkler and underground fire main equipment locations.
 - a. PIV/OS&Y/FDC locations.
 - i. Note all valves monitored and locked with break-away padlocks.
 - b. Alarm bell location (note sign required on bell that states: FIRE SPRINKLER CALL 9-1-1.
 - c. Check valve location (note on plan that location and height have been approved by MMWD).
4. Aerial access - ladder truck roadway access location and dimensions. (CFC D105)
 - a. Note locations of overhead electrical wires or other obstructions.
5. Fire lanes including striping and signage details. (CFC D103.6)
6. Class I standpipe equipment locations.
 - a. Confirm need for standpipe system as per CFC section 905.
7. Note location of yard private hydrants (if applicable). 300' to furthest wall in travel direction.
8. Knox box location. (CFC 506) - Note model 3200 series – recessed.
9. Premises identification – illuminated address numbers - dimensions and location.
10. Exiting system/stairs and emergency egress to public way.
11. Fire alarm/monitoring details.
 - a. Annunciator/main panel location.
 - b. Alarm room door marked **FACP**
 - c. Note on plan that system to be monitored by an approved 24/7 receiving company.
12. Elevator control information and elevator car dimensions.
 - a. Elevator fire recall information.
 - b. Note stretcher accommodation.
13. Identify closest City fire hydrants.
 - a. Note distance to building.
 - b. Type of appliance. (Note: applicant could be responsible for changing out hydrant body).
14. Fire extinguisher locations.
 - a. Note cabinet height.
 - b. Note size and type of appliances.
15. Location of utility shut offs – gas, electric and water.
 - a. Note on plans that this equipment will be plainly marked.
16. Utility and storage room locations – marked and identified.
17. Identify roof top stair access location.
18. Emergency responder radio coverage - BDA/DAS building distributed antenna system. (CFC 510)

decrease in the 10-year peak rate of flow due to the use of the bioretention structures. Coordinate sizing of the individual bioretention structures with the Stormwater Control Plan bioretention sizing based on the drainage management area (DMA).

8. Clarify if there will be a drainage easement over the creek and maintenance responsibility.
9. An ephemeral stream and 25 ft setback are shown running from east to west through the center of the site on the hydrology figure prepared by Sunset Ecological Solutions. However, the stream and setback are not incorporated into the proposed lot layouts.
10. The project appears to create or replace more than 5,000 square feet of impervious area and therefore will be considered a regulated project. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements:
 - i. Stormwater Control Plan – A short written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirement. (Needed to obtain planning permit.)

More information is available from MCSTOPPP. See tools and guidance, and post construction requirements at: <https://mcstoppp.org/2020/03/new-and-redevelopment/>

11. The parcel is not located in a low VMT area for residential development. The City of San Rafael Transportation Analysis Guidelines suggest a full VMT screening process (TAM Model will have to be engaged to determine VMT). The VMT results should be compared to the threshold. It is suggested to run the model for the final development scenario since the model work is extensive.

We offer the following additional comments regarding VMT for the proposed development below. Please note that it is the responsibility of the applicant to verify the numbers shared below.

- a. It appears the project exceeds what was anticipated in the General Plan parcel assumptions of 37 units (assuming no other parcels within the zone). At face value, it looks that this option will require quantitative analysis (model runs).
 - b. Follow the City of San Rafael Transportation Analysis Guidelines to account for the mixture of the type of multifamily units and the affordable housing percentage/number.
12. Prior to issuance of a building permit, the applicant shall pay traffic mitigation fee for net new AM and PM pea-hour trips. The rate per peak-hour trip and the corresponding amount of the traffic mitigation fee will be determined based on the rate in effect on the date of building permit issuance. For reference, the current rate is \$5,674 per peak-hour trip. The current rate is valid until January 1, 2024. The rate is adjusted annually in accordance with Resolution No. 14983 which includes built-in increases for base fee and construction index adjustments.
 13. We anticipate the following frontage/off-site improvements will be required as part of the development:
 - a. Upgrade Deer Park Ave. roadway along project frontage.
 - b. Upgrade Deer Park Ave. roadway between Highland Ave. and southern border of subject property may be required for adequate fire access and maneuverability.
 - c. Upgrade Gold Hill Grade roadway along project frontage.
 - d. Upgrade drainage infrastructure along Deer Park Ave. and Gold Hill Grade as needed to facilitate roadway improvements and the new development.
 - e. Provide a parking area at Gold Hill Grade to accommodate public access to the City Open Space.

- f. Dedicate a public access easement (PAE) for the walking trail through the property that historically has been used by the public to access City Open Space.
14. Please provide a separate sheet that only shows existing and proposed property line (removing all site elements) for clarity.
15. Stormwater Management. Suitable stormwater treatment and hydromodification measures shall be installed with each phase such that the stormwater runoff from the impervious areas created or replaced within the boundaries of each phase shall be properly treated and metered with stormwater treatment and hydromodification measures constructed with that phase or in previous phases.
16. The project Stormwater Management Plan shall incorporate trash capture measures such as screens, filters or CDS/Vortex units to address the requirements of Provision C.10 of the Regional Water Quality Control Board (RWQCB) Municipal Regional Permit (MRP).
17. The Developer shall obtain abandonment from all applicable public agencies of existing easements and right of ways within the development that will no longer be used if applicable.
18. Sheet C1 (Boundary & Topographic Survey)- Show and call out easements referenced in the Preliminary Title Report by Old Republic Title Company dated 11/21/2023. Call out easements to be abandoned. Add easement lines to the legend.
19. Sheet C2 (Tentative Map)- Use Sheet C2 as the sheet title sheet and change the sheet number to C1. Include pertinent information from S.R.M.C. sections 15.02.030 and 15.02.040. Change Boundary & Topographic Survey sheet to C2.
20. Show contour lines and grades at least 50 beyond the right of way line for roadway improvements and grade conforms to extent practical.
21. Add street names for all Private Streets.
22. Per S.R.M.C section 15.06.070.b, the Private Street serving lots 41 through 44 shall intersect Margarita Drive at an angle as near to a right angle.
23. Clarify the proposed drainage plan for the development, including the interface between open space and the properties and incorporate any necessary drainage and utility easements into the plans.
24. Sheet C4 (Preliminary Grading Plan)- Add lot numbers.
25. Add pad elevations and finish floor elevations to the Preliminary Grading Plan.
26. Provide details for all culverts being upgraded to handle the 10-year design storm. Since the culverts have been upsized, verify there is adequate cover over the proposed culverts as well as conflicts with existing utility crossings.
27. Provide street cross sections at Margarita Drive, Deer Park Avenue, Gold Hill Grade, and all Private Streets including drainage direction.
28. Provide cross sections through the multifamily homes and Deer Park Avenue to clarify conform between existing infrastructure and proposed improvements.
29. Show locations of proposed retaining walls and keyways.
30. Add Utility Plan showing water, sewer, storm, and joint trench including preliminary pipe sizes on applicable utilities.
31. Show location of stormwater treatment facilities.
32. See redline set for additional comments and provide a written response letter to DPW comments with the next submittal. Provide a response to each redlined comment on the Tentative Map.

Following comments are for additional information only:

- I. Prior to start of construction, a grading permit shall be required from the Department of Public Works. Applications can be found on the City's website: <https://www.cityofsanrafael.org/grading-permits/> Mass grading and earthwork operations shall occur between April 15 and October 15 unless approved otherwise by DPW. Prior to any clearing or grading, the Developer shall provide the City evidence that a Notice of Intent (NOI) has been filed with the California State Water Resources Control Board. A copy of the Storm Water Pollution Prevention Plan (SWPPP) shall be provided to the Public Works Department and be kept at the construction site.
- II. A construction management plan should be submitted for City review prior to issuance of building permit. Construction staging shall be onsite unless negotiated otherwise with DPW.
- III. An encroachment permit and grading permit will be required from the DPW prior to construction.
- IV. 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.
- V. The project appears to create or replace more than 5,000 square feet of impervious area and therefore will be considered a regulated project. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) requirements:
 - a. Stormwater Facilities Operations and Maintenance (O&M) Plan- A short document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. The maintenance plan shall include the manufactures recommended maintenance practices, designated parties of responsible for upkeep, specify funding source for ongoing maintenance with provisions for full replacement when necessary and provide a site-specific inspection checklist. (Provide prior to occupancy)
 - b. Operations and Maintenance Agreement- A formal agreement between the property owner and the city that shall be recorded with the property deed prior to occupancy. (Provide prior to occupancy)
- VI. Prior to the start of work, it is the applicant's responsibility to obtain approval(s) from each applicable regulatory agency, such as CDFWS and RWQCB for any work that may encroach into their jurisdiction.
- VII. Slope Easements/Utility Easements. The Developer shall be responsible for securing all necessary slope, grading, drainage and utility easements on adjacent parcels as determined by the City Engineer to allow the construction of the roadway, storm drain and utility improvements.
- VIII. Ensure internal roadways are accessible to vehicles providing services to the development such as garbage, delivery, and mail trucks. Coordination with applicable agencies may be required.

The applicant will be required to provide reimbursement for third-party consultant review fees. This may include, but not limited to, fees associated with review of the traffic, civil engineering, geotechnical engineering, and surveying aspects of future project submissions.

Please contact Joanna Kwok or Assistant Engineer Megan Kelly at the Department of Public Works with questions regarding these comments:

Joanna Kwok - By phone at 415.720.4957 or email at joanna.kwok@cityofsanrafael.org.
Megan Kelly – By Phone at 415-485-3454 or email at megan.kelly@cityofsanrafael.org

Attachment A – San Rafael Municipal Code Section 15.02.030

Attachment A

15.02.030 Information on tentative map.

The tentative map shall be prepared by a registered civil engineer or licensed surveyor, shall be to a scale of not less than one inch equals one hundred feet (100') and shall be clearly and legibly reproduced. The tentative map shall contain the following information:

- (a) The subdivision name, date, north arrow, a graphic or bar scale and sufficient description to define the location and boundaries of the proposed subdivision;
- (b) Name and address of property owner(s) of record;
- (c) Name and address of the subdivider;
- (d) Name, business address and telephone number of the registered civil engineer, or licensed surveyor, who prepared the map of the subdivision. If the proposed subdivision is intended to be developed in phases and multiple or phased final maps are to be recorded, a written statement to this effect shall be placed on the face of the tentative map, as required by Section 15.02.130 of this chapter;
- (e) Elevations or contours at intervals of ten feet (10') to determine slope of the land and the high and low points thereof, provided that the city engineer may require additional contours;
- (f) The locations, footprint, outline and use of each existing structure or improvement on the subject property, and their locations in relation to existing or proposed street(s) and lot lines;
- (g) The locations, names, widths and approximate grades of all roads, streets, and highways in the proposed subdivision and along the boundaries thereof;
- (h) The location and character of all existing or proposed sanitary sewers and storm drains in the subdivision or on adjoining and contiguous highways, streets and roads;
- (i) The approximate widths, location and purpose of all existing or proposed easements or areas of use restriction on the subject property or on land contiguous to the proposed subdivision;
- (j) Approximate lot layout and approximate dimensions of each lot and corresponding lot numbering, including lots or parcels proposed for common ownership, dedication, and/or nondevelopment purposes;
- (k) The location, boundaries and elevation of existing watercourses, channels or waterways, including all areas subject to inundation or stormwater overflow and the location, width and direction of flow of all watercourses;
- (l) A grading plan depicting proposed grades and quantities of earth movement;
- (m) A drainage plan depicting proposed drainage improvements and facilities;
- (n) The location, dripline, trunk size and species of all existing trees in and around the area of proposed development. For areas of the subject property that are not proposed for development purposes, a detailed survey of the existing trees is not necessary; however, tree cover shall be shown;
- (o) Typical street sections and details thereof.

(Ord. 1787 § 1 (part), 2002).T

DATE OF FIELD SURVEY:

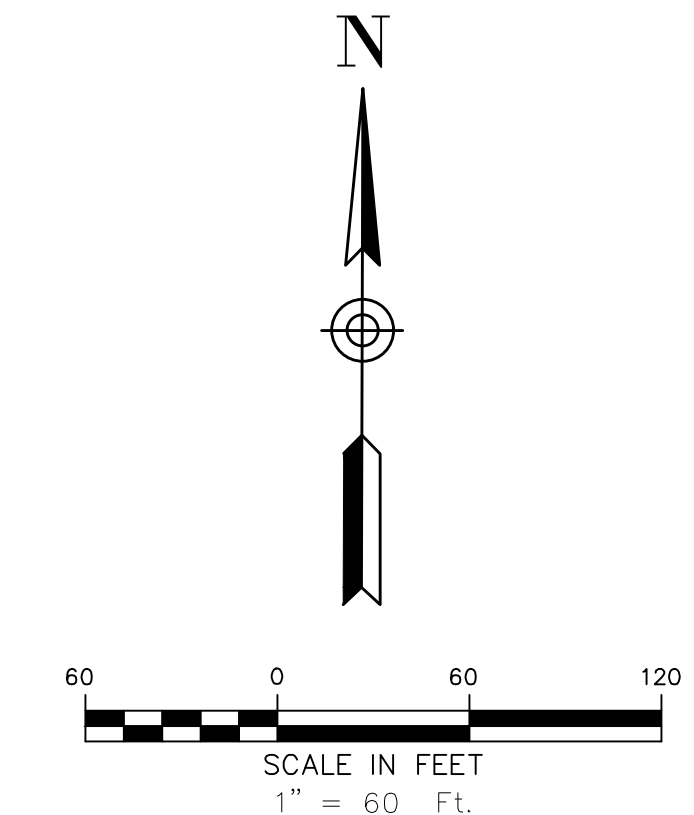
NOVEMBER 23, 2022

Provide sheet Index

ABBREVIATIONS:

- A.P.N. ASSESSOR'S PARCEL NUMBER
- CONC. CONCRETE
- FL FLOW LINE
- CLSTR CLUSTER
- DT DECIDUOUS TREE
- EP EDGE OF PAVEMENT
- CPP CORRUGATED PLASTIC PIPE
- CMP CORRUGATED METAL PIPE
- RCP REINFORCE CONCRETE PIPE

15.07.020.e.5 - Provide Erosion Control plan



Street name?

Show and call out all easements as referenced in the Preliminary Title Report by Old Republic Title Company dated 11/21/2023. Call out easements to be abandoned. Add easements to the Legend below.

LEGEND:

- TOP OF BANK
- TOE OF BANK
- GRADE BREAK
- BOUNDARY LINE
- MINOR CONTOUR LINE (1')
- MAJOR CONTOUR LINE (5')
- FLOW LINE
- SANITARY SEWER LINE
- TREE AS LABELED
- PAVEMENT
- GRAVEL
- BOLLARD
- WATER VALVE
- WATER METER
- SPOT ELEVATION
- SANITARY SEWER MANHOLE
- FIRE HYDRANT
- POWER POLE
- JOINT POLE
- GUY WIRE
- SIGN AS NOTED
- GAS VALVE

PROPERTY AREA:

TOTAL PARCEL AREA: 905,768 SQ. FT. = 20.79 ACRES

SURVEYOR'S NOTES:

1. ALL TREES SHOWN HEREON REFLECT THEIR HORIZONTAL GROUND LOCATIONS AND ARE MEASURED AT BREAST HEIGHT.

BENCHMARK NOTE:

THE ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) VIA NATIONAL GEODETIC SURVEY'S (NGS) 'GEOID12B' GEOID MODEL BEING APPLIED TO COMPUTED ELLIPSOID HEIGHTS AS TIED TO THE PUBLISHED ELLIPSOID HEIGHT AT AVAILABLE CORS STATIONS ON THE CALIFORNIA REAL TIME NETWORK

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS BASED UPON A FIELD SURVEY.



DEC 1, 2023

LEON E. OBERKAMPER REGISTERED CIVIL ENGINEER #12094

DATE

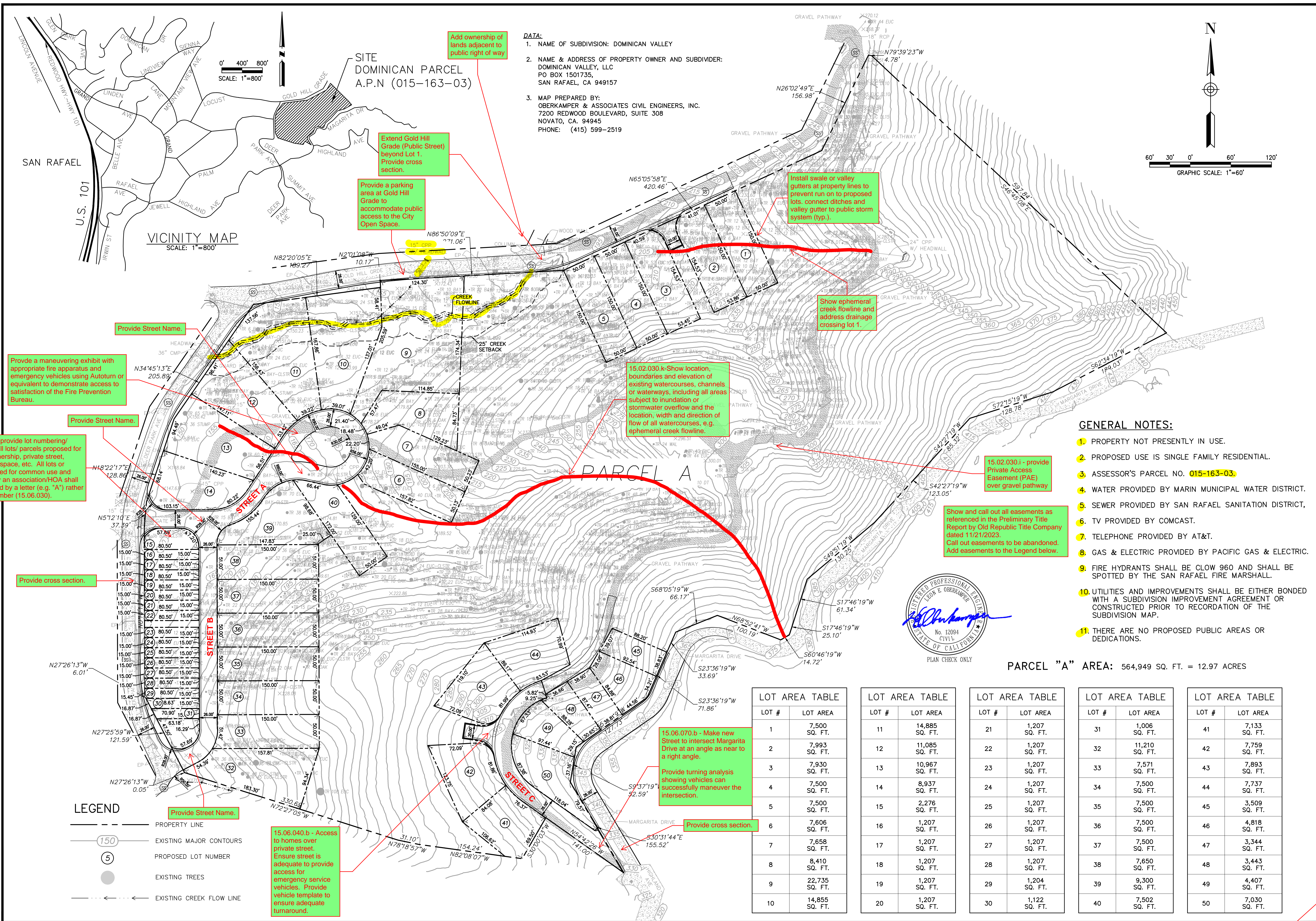
OBERKAMPER & ASSOCIATES
CIVIL ENGINEERS, INC.
7200 REDWOOD BLVD. SUITE 305, SOVATO, CA 94945
PHONE: (415) 807-2800
WWW.OBERKAMPER.COM

CALIFORNIA

BOUNDARY & TOPOGRAPHIC SURVEY
DOMINICAN PARCEL A.P.N. (015-163-03)
MARIN COUNTY
CITY OF SAN RAFAEL

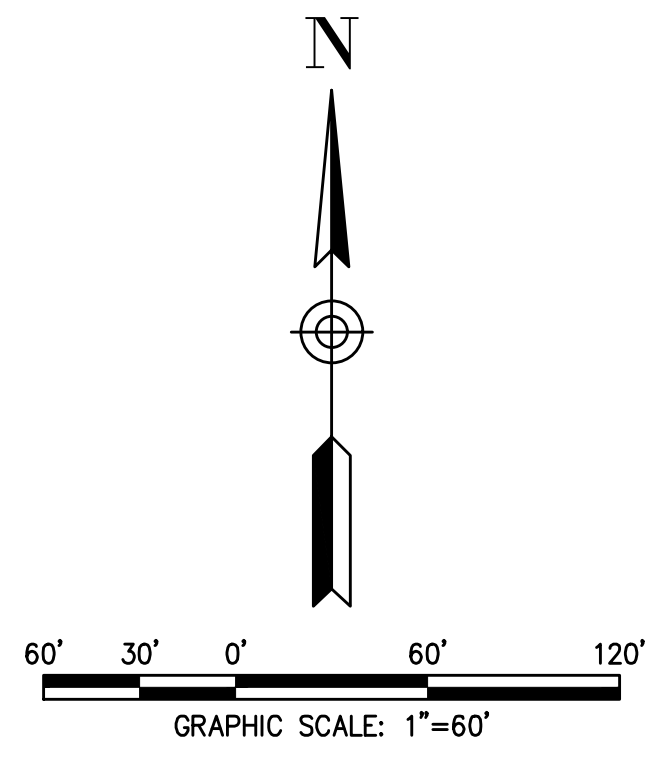
Scale: 1" = 60'
Drawn by: BM
Field Crew: AS
Checked by: LEO
Date: 12/1/2023

SHEET
C1
1 OF 6
22-192



DATA:

1. NAME OF SUBDIVISION: DOMINICAN VALLEY
2. NAME & ADDRESS OF PROPERTY OWNER AND SUBDIVIDER:
DOMINICAN VALLEY, LLC
PO BOX 1501735,
SAN RAFAEL, CA 949157
3. MAP PREPARED BY:
OBERKAMPER & ASSOCIATES CIVIL ENGINEERS, INC.
7200 REDWOOD BOULEVARD, SUITE 308
NOVATO, CA. 94945
PHONE: (415) 599-2519



VICINITY MAP
SCALE: 1"=800'

SITE DOMINICAN PARCEL
A.P.N (015-163-03)

Add ownership of lands adjacent to public right of way

Extend Gold Hill Grade (Public Street) beyond Lot 1. Provide cross section.

Provide a parking area at Gold Hill Grade to accommodate public access to the City Open Space.

Install swale or valley gutters at property lines to prevent run on to proposed lots. connect ditches and valley gutter to public storm system (typ.).

Show ephemeral creek flowline and address drainage crossing lot 1.

15.02.030.k-Show location, boundaries and elevation of existing watercourses, channels or waterways, including all areas subject to inundation or stormwater overflow and the location, width and direction of flow of all watercourses, e.g. ephemeral creek flowline.

15.02.030.i - provide Private Access Easement (PAE) over gravel pathway

Show and call out all easements as referenced in the Preliminary Title Report by Old Republic Title Company dated 11/21/2023. Call out easements to be abandoned. Add easements to the Legend below.

Provide Street Name.

Provide a maneuvering exhibit with appropriate fire apparatus and emergency vehicles using Autoturn or equivalent to demonstrate access to satisfaction of the Fire Prevention Bureau.

Provide Street Name.

15.02.030.j - provide lot numbering/lettering for all lots/ parcels proposed for common ownership, private street, private open space, etc. All lots or parcels created for common use and ownership by an association/HOA shall be designated by a letter (e.g. "A") rather than a lot number (15.06.030).

Provide cross section.

Provide Street Name.

15.06.040.b - Access to homes over private street. Ensure street is adequate to provide access for emergency service vehicles. Provide vehicle template to ensure adequate turnaround.

15.06.070.b - Make new Street to intersect Margarita Drive at an angle as near to a right angle.

Provide turning analysis showing vehicles can successfully maneuver the intersection.

Provide cross section.



PARCEL "A" AREA: 564,949 SQ. FT. = 12.97 ACRES

GENERAL NOTES:

1. PROPERTY NOT PRESENTLY IN USE.
2. PROPOSED USE IS SINGLE FAMILY RESIDENTIAL.
3. ASSESSOR'S PARCEL NO. **015-163-03.**
4. WATER PROVIDED BY MARIN MUNICIPAL WATER DISTRICT.
5. SEWER PROVIDED BY SAN RAFAEL SANITATION DISTRICT.
6. TV PROVIDED BY COMCAST.
7. TELEPHONE PROVIDED BY AT&T.
8. GAS & ELECTRIC PROVIDED BY PACIFIC GAS & ELECTRIC.
9. FIRE HYDRANTS SHALL BE CLOW 960 AND SHALL BE SPOTTED BY THE SAN RAFAEL FIRE MARSHALL.
10. UTILITIES AND IMPROVEMENTS SHALL BE EITHER BONDED WITH A SUBDIVISION IMPROVEMENT AGREEMENT OR CONSTRUCTED PRIOR TO RECORDATION OF THE SUBDIVISION MAP.
11. THERE ARE NO PROPOSED PUBLIC AREAS OR DEDICATIONS.

LOT AREA TABLE		LOT AREA TABLE		LOT AREA TABLE		LOT AREA TABLE		LOT AREA TABLE	
LOT #	LOT AREA	LOT #	LOT AREA	LOT #	LOT AREA	LOT #	LOT AREA	LOT #	LOT AREA
1	7,500 SQ. FT.	11	14,885 SQ. FT.	21	1,207 SQ. FT.	31	1,006 SQ. FT.	41	7,133 SQ. FT.
2	7,993 SQ. FT.	12	11,085 SQ. FT.	22	1,207 SQ. FT.	32	11,210 SQ. FT.	42	7,759 SQ. FT.
3	7,930 SQ. FT.	13	10,967 SQ. FT.	23	1,207 SQ. FT.	33	7,571 SQ. FT.	43	7,893 SQ. FT.
4	7,500 SQ. FT.	14	8,937 SQ. FT.	24	1,207 SQ. FT.	34	7,500 SQ. FT.	44	7,737 SQ. FT.
5	7,500 SQ. FT.	15	2,276 SQ. FT.	25	1,207 SQ. FT.	35	7,500 SQ. FT.	45	3,509 SQ. FT.
6	7,606 SQ. FT.	16	1,207 SQ. FT.	26	1,207 SQ. FT.	36	7,500 SQ. FT.	46	4,818 SQ. FT.
7	7,658 SQ. FT.	17	1,207 SQ. FT.	27	1,207 SQ. FT.	37	7,500 SQ. FT.	47	3,344 SQ. FT.
8	8,410 SQ. FT.	18	1,207 SQ. FT.	28	1,207 SQ. FT.	38	7,650 SQ. FT.	48	3,443 SQ. FT.
9	22,735 SQ. FT.	19	1,207 SQ. FT.	29	1,204 SQ. FT.	39	9,300 SQ. FT.	49	4,407 SQ. FT.
10	14,855 SQ. FT.	20	1,207 SQ. FT.	30	1,122 SQ. FT.	40	7,502 SQ. FT.	50	7,030 SQ. FT.

LEGEND

- PROPERTY LINE
- (150) EXISTING MAJOR CONTOURS
- (5) PROPOSED LOT NUMBER
- EXISTING TREES
- EXISTING CREEK FLOW LINE

OBERKAMPER & ASSOCIATES
CIVIL ENGINEERS, INC.
7200 REDWOOD BLVD SUITE 308 NOVATO, CA 94945
PHONE: (415) 599-2800
WWW.OBERKAMPER.COM

TENTATIVE MAP, DOMINICAN VALLEY SUBDIVISION
DOMINICAN PARCEL A.P.N (015-163-03)
MARIN COUNTY
CITY OF SAN RAFAEL


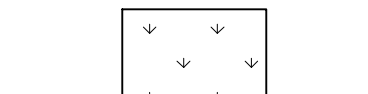
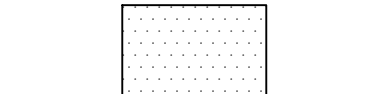
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Drawn by: BM
Field Crew: AS
Checked by: LEO
Date: 12/1/2023

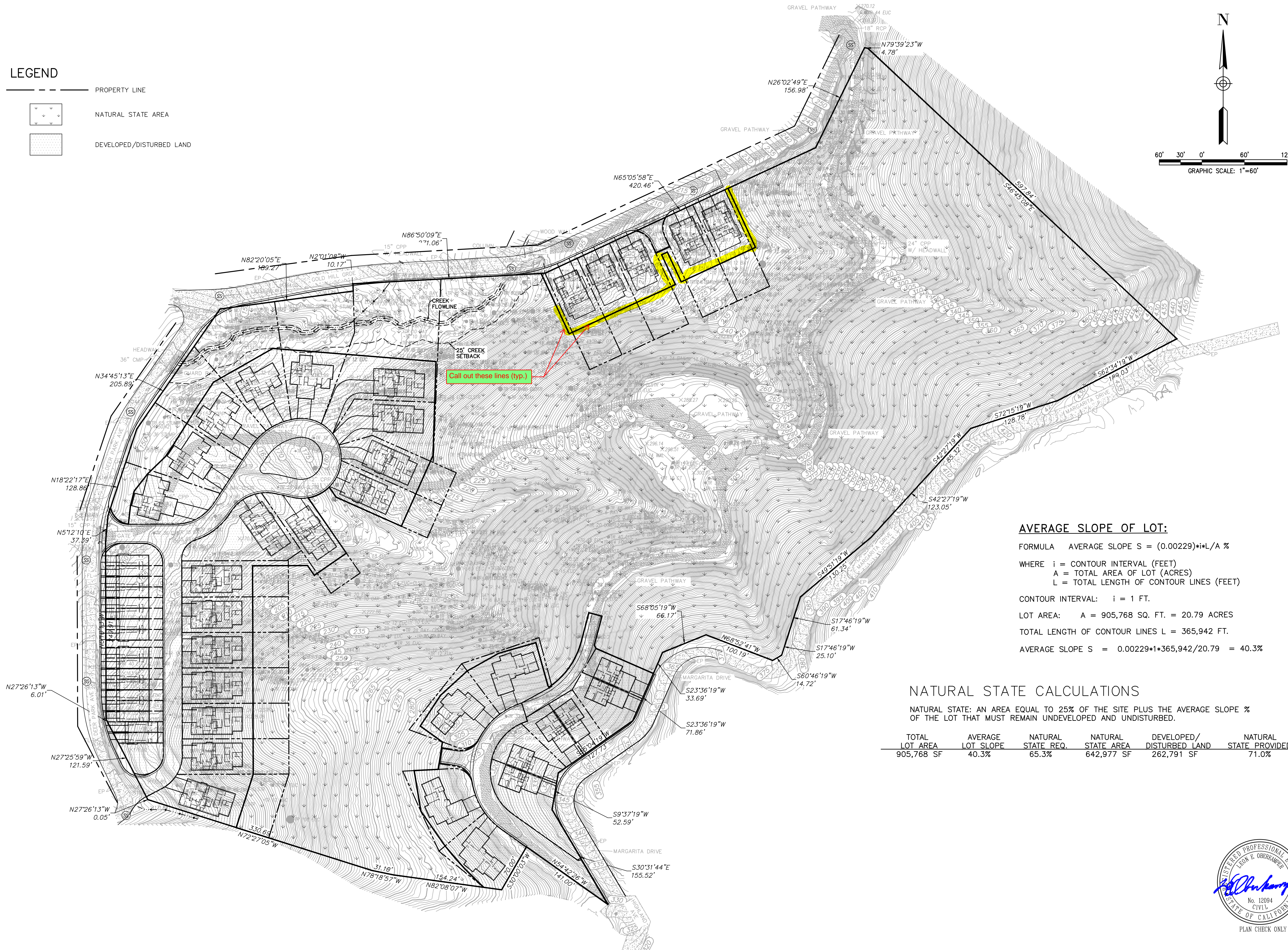
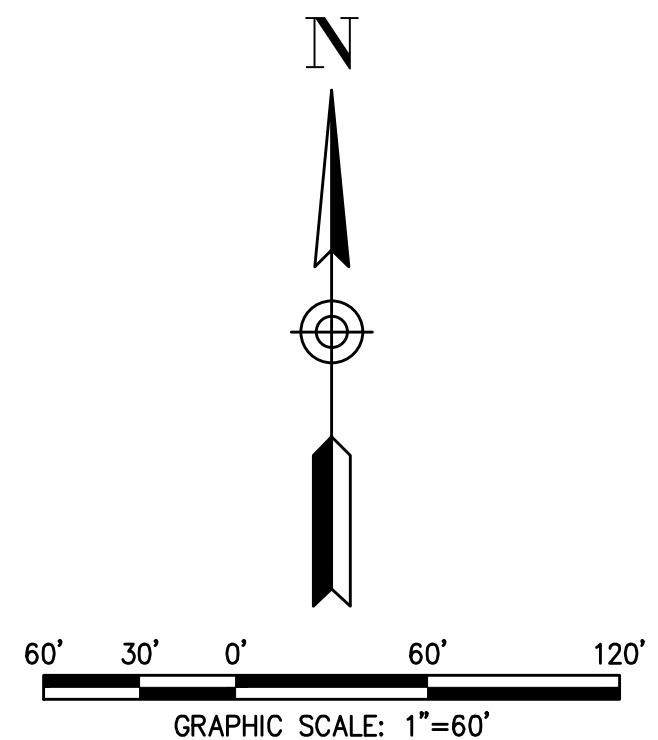
SHEET
C2
2 OF 6
22-192

Make Sheet C2 Title Sheet for the Tentative Map.

Subdiv 2023-22-192 Cassidy Dominican CIVIL DESIGN 22-192 TENTATIVE MAP.dwg, 12/1/2023 11:42:49 AM

LEGEND

-  PROPERTY LINE
-  NATURAL STATE AREA
-  DEVELOPED/DISTURBED LAND



AVERAGE SLOPE OF LOT:

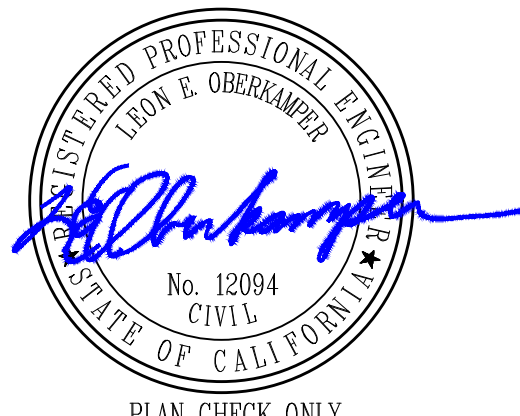
FORMULA AVERAGE SLOPE S = (0.00229)*i*L/A %
 WHERE i = CONTOUR INTERVAL (FEET)
 A = TOTAL AREA OF LOT (ACRES)
 L = TOTAL LENGTH OF CONTOUR LINES (FEET)

CONTOUR INTERVAL: i = 1 FT.
 LOT AREA: A = 905,768 SQ. FT. = 20.79 ACRES
 TOTAL LENGTH OF CONTOUR LINES L = 365,942 FT.
 AVERAGE SLOPE S = 0.00229*1*365,942/20.79 = 40.3%

NATURAL STATE CALCULATIONS

NATURAL STATE: AN AREA EQUAL TO 25% OF THE SITE PLUS THE AVERAGE SLOPE % OF THE LOT THAT MUST REMAIN UNDEVELOPED AND UNDISTURBED.

TOTAL LOT AREA	AVERAGE LOT SLOPE	NATURAL STATE REQ.	NATURAL STATE AREA	DEVELOPED/DISTURBED LAND	NATURAL STATE PROVIDED
905,768 SF	40.3%	65.3%	642,977 SF	262,791 SF	71.0%



S:\Sub\2023\22-192_Casidy_Dominican\DWG\DESIGN\22-192_TENTATIVE_MAP.dwg, 12/1/2023 11:12:45 AM

1	2	3	4	5
OBERKAMPER & ASSOCIATES CIVIL ENGINEERS, INC. 7200 REDWOOD BLVD SUITE 305 SOVATO, CA 94945 PHONE: (415) 807-2800 WWW.OBERKAMPER.COM				
NATURAL STATE PLAN DOMINICAN PARCEL A.P.N. (015-163-03) MARIN COUNTY CALIFORNIA				
Scale: 1" = 60' Drawn by: BM Field Crew: AS Checked by: LEO Date: 12/1/2023				
SHEET C3 3 OF 6 22-192				

LEGEND

- PROPERTY LINE
- (150) EXISTING MAJOR CONTOURS
- EXISTING TREES
- EXISTING CREEK FLOW LINE
- 320 PROPOSED MAJOR CONTOURS
- +180.0 PROPOSED SPOT ELEVATION
- GF GARAGE FINISH FLOOR ELEVATION

← Add Pad Elevation.

Add Lot numbers (typ.).

Add Pad Elevation.

Provide details for all culverts being up-sized to handle the 10-year design storm, typ.

Add Pad Elevations, typ.

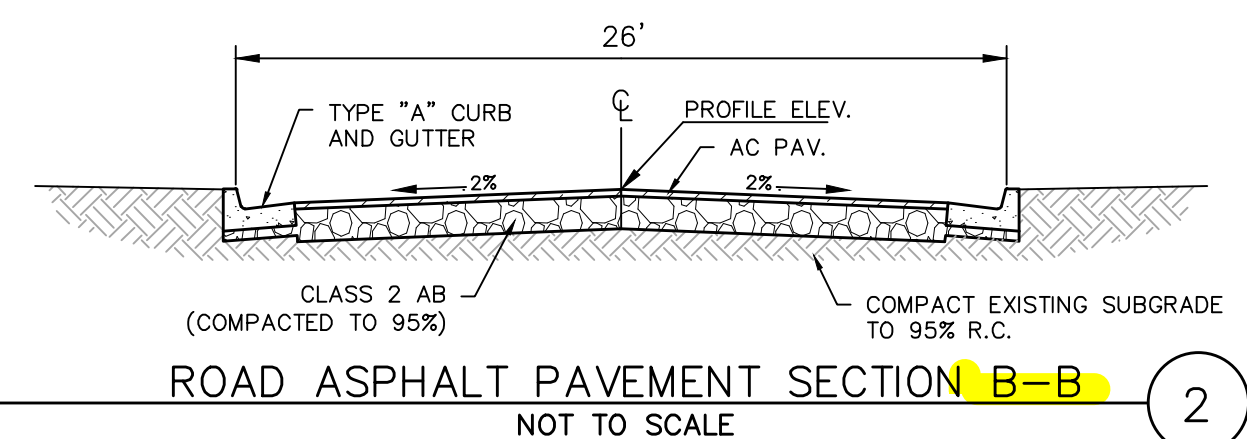
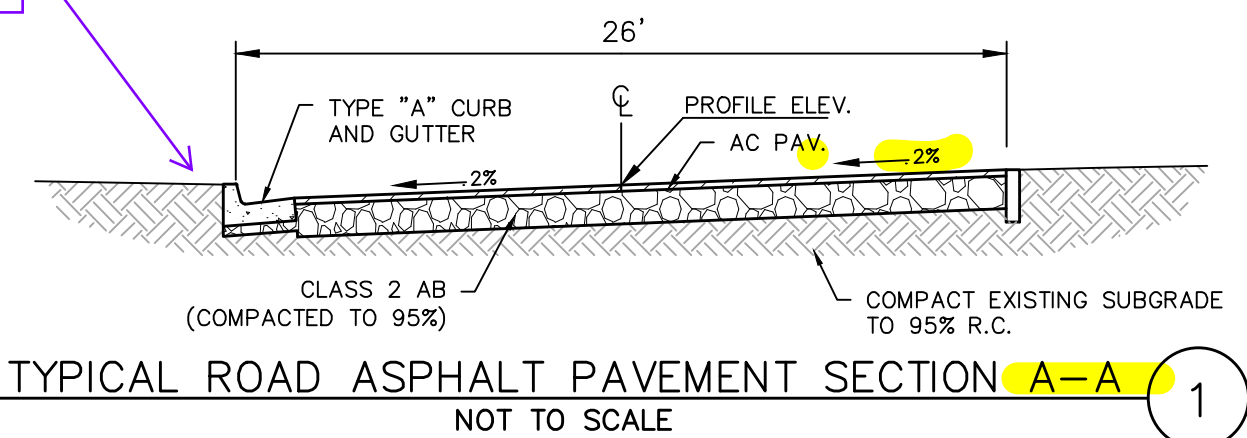
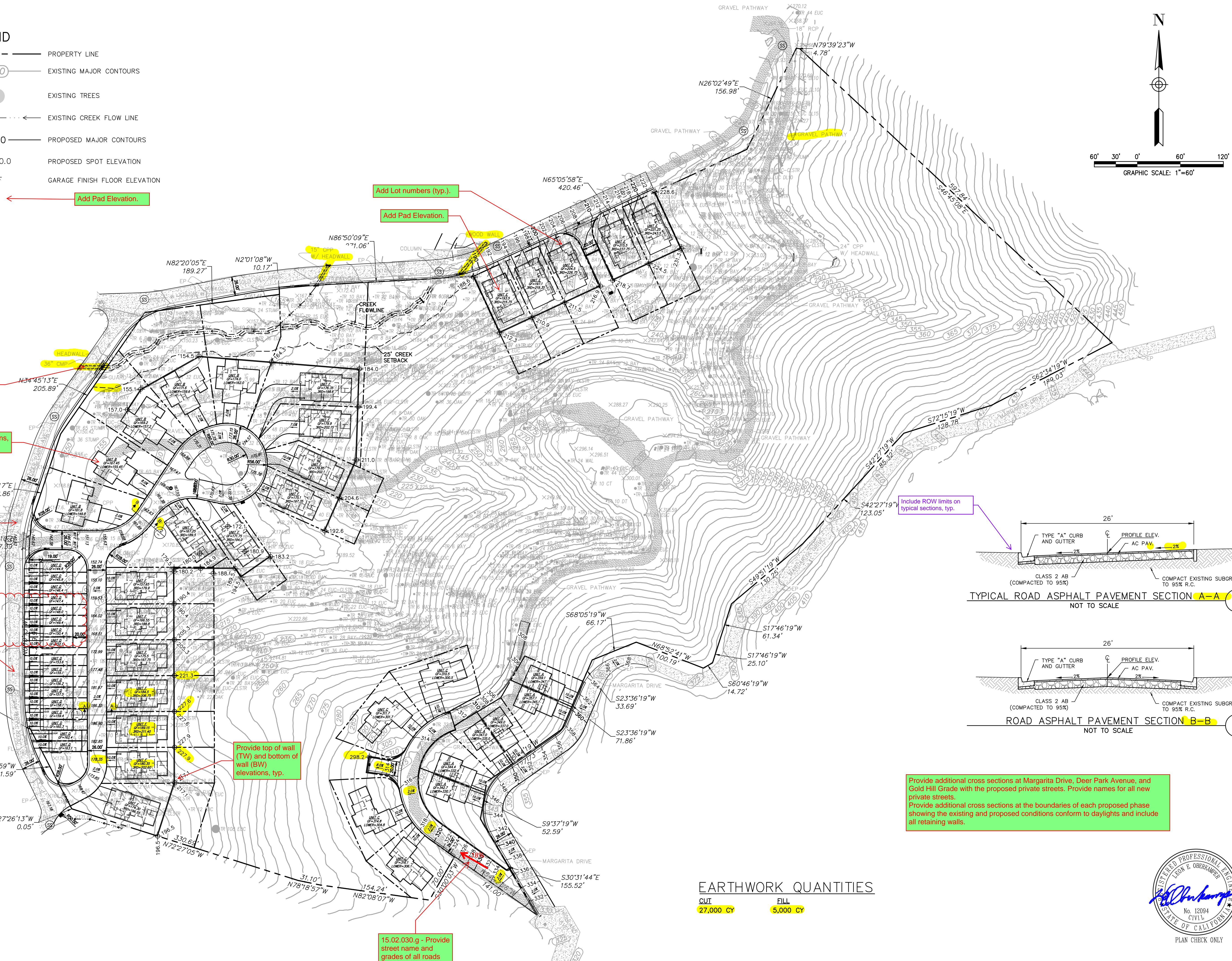
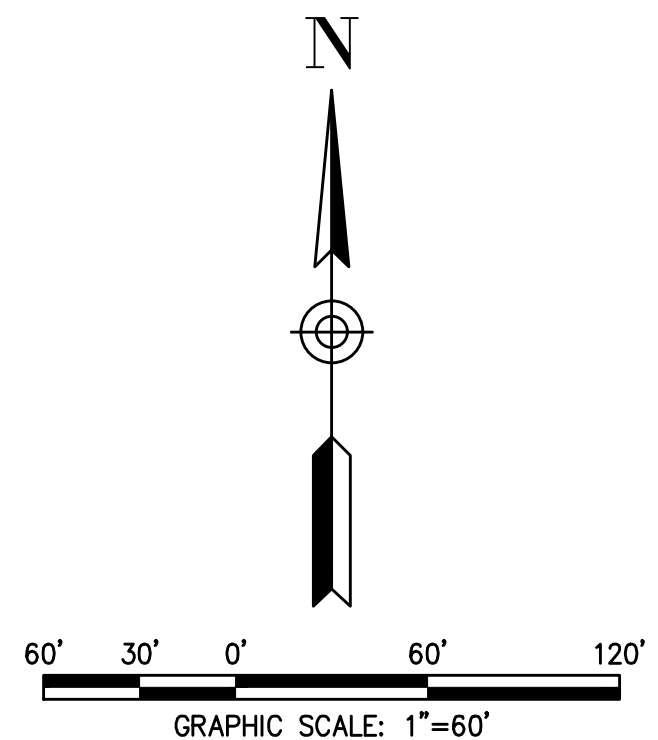
Provide section for Deer Park Ave and Gold Hill Grade

Please provide cross sections through the multifamily homes and Deer Park Avenue to clarify conform between existing infrastructure and proposed improvements.

Show cross slope and direction of flow

Provide top of wall (TW) and bottom of wall (BW) elevations, typ.

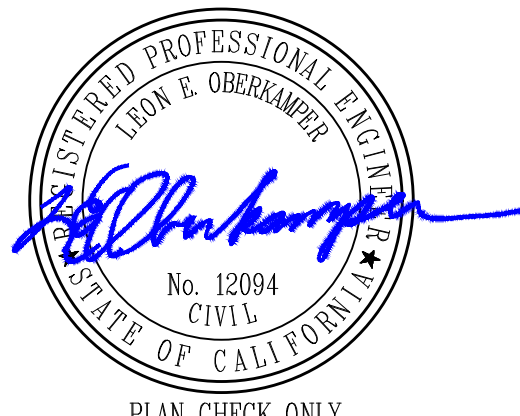
15.02.030 g - Provide street name and grades of all roads



Provide additional cross sections at Margarita Drive, Deer Park Avenue, and Gold Hill Grade with the proposed private streets. Provide names for all new private streets. Provide additional cross sections at the boundaries of each proposed phase showing the existing and proposed conditions conform to daylight and include all retaining walls.

EARTHWORK QUANTITIES

CUT 27,000 CY FILL 5,000 CY

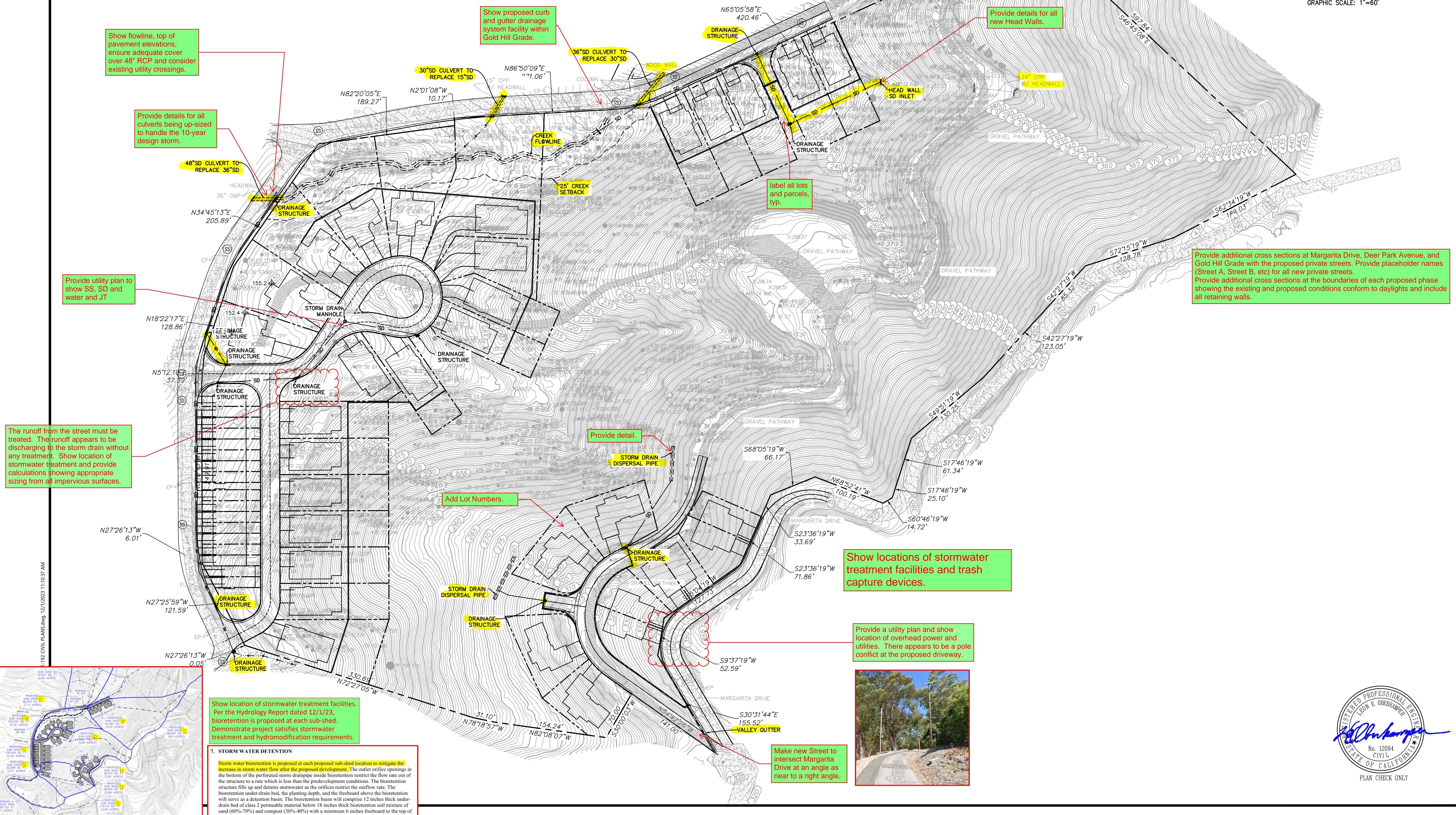
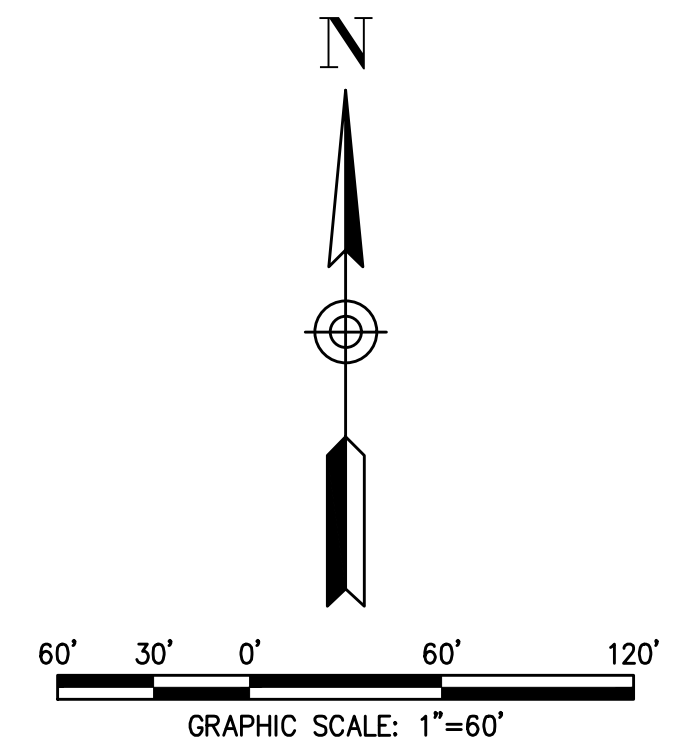


<p>OBERKAMPER & ASSOCIATES CIVIL ENGINEERS, INC. 7200 REDWOOD BLVD SUITE 308 SOVATO, CA 94945 PHONE: (415) 897-2800 WWW.OBERKAMPER.COM</p>	<p>CALIFORNIA PRELIMINARY GRADING PLAN DOMINICAN PARCEL A.P.N. (015-163-03) MARIN COUNTY CITY OF SAN RAFAEL</p>
<p>Scale: 1" = 60' Drawn by: BM Field Crew: AS Checked by: LEO Date: 12/1/2023</p>	<p>SHEET C4 4 OF 6 22-192</p>

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LEGEND

- PROPERTY LINE
- EXISTING MAJOR CONTOURS
- EXISTING TREES
- EXISTING CREEK FLOW LINE
- PROPOSED STORM DRAIN LINE
- PROPOSED DRAINAGE STRUCTURE



Show flowline, top of pavement elevations, ensure adequate cover over 48" RCP and consider existing utility crossings.

Provide details for all culverts being up-sized to handle the 10-year design storm.

Show proposed curb and gutter drainage system facility within Gold Hill Grade.

Provide details for all new Head Walls.

Provide utility plan to show SS, SD and water and JT.

Provide additional cross sections at Margarita Drive, Deer Park Avenue, and Gold Hill Grade with the proposed private streets. Provide placeholder names (Street A, Street B, etc) for all new private streets. Provide additional cross sections at the boundaries of each proposed phase showing the existing and proposed conditions conform to daylight and include all retaining walls.

The runoff from the street must be treated. The runoff appears to be discharging to the storm drain without any treatment. Show location of stormwater treatment and provide calculations showing appropriate sizing from all impervious surfaces.

Provide detail.

Add Lot Numbers.

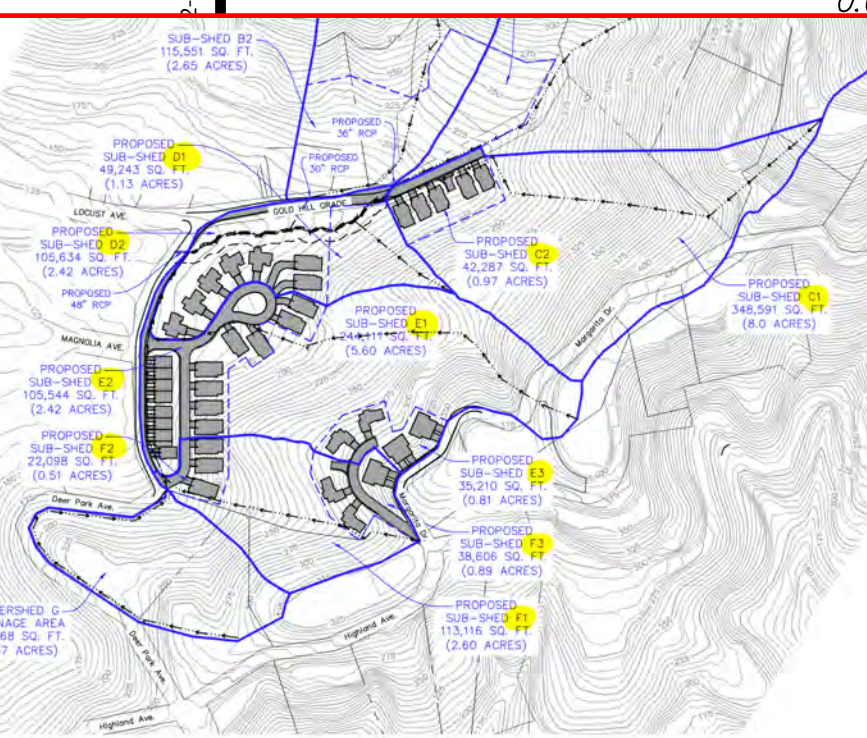
Show locations of stormwater treatment facilities and trash capture devices.

Provide a utility plan and show location of overhead power and utilities. There appears to be a pole conflict at the proposed driveway.

Show location of stormwater treatment facilities. Per the Hydrology Report dated 12/1/23, bioretention is proposed at each sub-shed. Demonstrate project satisfies stormwater treatment and hydromodification requirements.

7. STORM WATER DETENTION
 Storm water bioretention is proposed at each proposed sub-shed location to mitigate the increase in storm water flow after the proposed development. The outlet orifice openings in the bottom of the perforated storm drainpipe inside bioretention restrict the flow rate out of the structure to a rate which is less than the predevelopment conditions. The bioretention structure fills up and detains stormwater as the orifices restrict the outflow rate. The bioretention under-drain bed, the planting depth, and the freeboard above the bioretention will serve as a detention basin. The bioretention basin will comprise 12 inches thick under-drain bed of class 2 permeable material below 18 inches thick bioretention soil mixture of sand (60%-70%) and compost (30%-40%) with a minimum 6 inches freeboard to the top of overflow storm drain structure grate. A 20% porosity is used for the under-drain bed and bioretention soil mixture in hydrograph detention volume calculations.

Make new Street to intersect Margarita Drive at an angle as near to a right angle.



1	2	3	4	5
<p>OBERKAMPER & ASSOCIATES CIVIL ENGINEERS INC. 7200 REDWOOD BLVD SUITE 305 SOVATO, CA 94945 PHONE: (415) 897-2800 WWW.OBERKAMPER.COM</p>				
<p>PRELIMINARY DRAINAGE PLAN DOMINICAN PARCEL A.P.N. (015-163-03) MARIN COUNTY CALIFORNIA</p>				
<p>Scale: 1" = 60' Drawn by: BM Field Crew: AS Checked by: LEO Date: 12/1/2023</p>				
<p>SHEET C5 5 OF 6 22-192</p>				



103 CIVIL PLANS.dwg, 12/1/2023 11:10:37 AM

15.02.040.a-include a description of the existing use of the property.

Date December 4th, 2023

Ref. PLAN23-081
Sub -Divider Dominican Valley Subdivision
APPLICANT Dominican Valley LLC
Site address APN 015-163-03

Project Description

The Dominican Valley property is a 20.79 Acre site located in the Dominican / Black Canyon neighborhood of San Rafael. The subject site is bordered northwesterly between the streets of Gold-Hill grade and Deer Park Ave and southerly by Highland Ave and Margarita Drive. The development proposes Subdivision of the site into 50 lots with 50 units of residential housing (+14 Attached Junior ADUs).

The projects 50 lot layout has been designed as a “Clustered development”, specifically Clustering’s of development areas utilizing portions of the site which provide ease of access to the Public Right of Way (R.O.W) street frontages including Magnolia Drive, Deer-Park Ave, Gold-Hill Grade and Margarita Drive. Many of the lots are positioned along these public R.O.W street frontages where connections are available to Public Utilities and vehicular access, the remainder have public utility and vehicular access through private streets.

The designed Clustering of the development focused on avoidance of areas onsite with steep topography which thereby helped retain over +70% of the site as undisturbed natural terrain and avoided development of highly visible Hillside or ridgelines while preserving hillsides as visual backdrop. The significant amount of undisturbed natural terrain also helps minimize removal of natural, vegetation and significant trees.

The development maintains a 25ft top of bank buffer to Sisters Creek meandering along Goldhill grade. The Drainageway onsite which are outside of the development footprint areas shall be piped / culverted and diverted towards Sisters Creek. The proposed private streets have been designed with appropriate width, slope gradient and emergency Vehicle turn outs to ensure meeting Fire Code standards while also providing safe vehicular and pedestrian access to the development.

The 50 residential units (+ 14. Junior ADUs) comprises of the following types of units.

- 27 single-family homes ranging in size from 2612 ft.² - 3215 ft.².
- 17 townhomes ranging in size from 1150 ft.² - 1390 ft.² (*T-Homes with attached junior ADUs)
- 6 Duplex units each 1705 ft.²

The homes have been designed to blend into the surrounding area, with the use of both steps back massing and flat or low-pitched roofs. The architectural design of the home’s exterior reflects a modern California feel with natural materials and muted colors. The building forms and open floor plans create strong connections to the outdoors utilizing large areas of glazing in combination with numerous outdoor patios.

The landscape will utilize a low-water, low-maintenance planting palette of native and climate-appropriate plants, with selected areas for bioretention and stormwater treatment. The plan preserves and protects the open space outside the area of disturbance as much as possible.

15.02.040.c-include a statement of the proposed improvements including public utilities, water supply and sewerage disposal, how these improvements are to be made or installed, and the estimated timing of when such improvements are to be completed

15.02.040.d-include description of proposed public areas and dedications, if any, if not, state so.

15.02.040.e-include description of proposed tree removal and new planting.

15.02.040.f-include description of proposed restrictions, covenants or easements, if any.



**San Rafael
Sanitation
District**

111 Morphew Street
San Rafael, CA 94901

Telephone 415 454-4001

Board of Directors

Kate Colin, Chair
Maribeth Bushey, Secretary/Director
Katie Rice, Director

District Manager/District Engineer

Doris Toy, P.E.

Thursday, December 21, 2023

File No. 14.20.23.030

Ray Cassidy
PO Box 150173
San Rafael, CA 94915
marindevelop@gmail.com

**Re: San Rafael Sanitation District Plan Review Response for:
APN: 015-163-03
Planning Permit No. Plan23-081; New Residential Dwelling Units.**

Dear Mr. Cassidy

San Rafael Sanitation District (SRSD) has reviewed the resubmitted Plans on 6/8/2022 for the subject project and has the following conditions that shall be addressed in a separate building permit application:

1. Provide civil plans to show how the proposed SFD will connect to the existing sanitary sewer main. The SFD sewer lateral connection plan shall include the following:
 - a. Provide a cleanout/backflow-prevention device no further than 2-ft from the building foundation. Note that the Contra Costa-type backflow device with a 2-way cleanout is preferred.
 - b. If the difference in elevation of the lowest fixture and the backflow-prevention device is less than six inches, a backwater check valve shall be installed.
 - c. Show the pipe material type and diameter proposed for the lateral connection per Table 1 of the SRSD Specifications for Laterals.
 - d. Provide a profile of the sewer lateral from the proposed dwelling to the proposed sewer main connection point showing the pipe depth per the pipe material type pursuant to SRSD Specifications for Laterals.
 - e. Provide complete Civil Plans for the proposed re-route of the 6" VCP sewer main per SRSD Standard Specifications and Drawings, 2007.
2. Provide engineering sewage flow calculations for the existing sewer main pipes on Deer Park Ave to verify if the existing pipes can handle the increase loads due to the development. If not, the pipes need to be upsized.
3. Provide the following notes on the Civil Plans:
 - a. All exterior sanitary sewer-related work shall be performed in accordance with the San Rafael Sanitation District (SRSD) Standard Plans and Specifications.
 - b. A sewer permit from the San Rafael Sanitation District is required independent of a building permit for all proposed sewer lateral work outside the dwelling footprint. The property owner or authorized agent shall apply for a sewer permit online or contact SRSD for more information at (415) 454-4001 prior to the start of work.

- c. Notify the San Rafael Sanitation District Inspector 72 hours prior to the start of sanitary sewer construction by phone at (415) 454-4001.
4. Pursuant to District Ordinance No. 56, the District requires a sewer connection fee based on the total numbers of dwelling units and it is due prior to issuance of a building permit.

If you have any questions, please contact Tim Tran at 415-451-2441 or email at tim.tran@cityofsanrafael.org.

Sincerely,

Handwritten signature of Tim Tran in black ink.

Tim Tran, PE
Associate Civil Engineer