

San Rafael housing plan size rattles Dominican University

<https://www.marinij.com/2024/08/18/san-rafael-housing-plan-size-rattles-dominican-university/>

By [Richard Halstead](#) | rhalstead@marinij.com | Marin Independent Journal

UPDATED: August 19, 2024 at 6:09 a.m.

Dominican University of California, faced with community outrage over a housing development on land it sold, has a message for San Rafael: We were misinformed.

The university's president, Nicola Pitchford, has sent a letter to the city stating that Dominican was led to believe the property it sold to developer Raymond Cassidy in April 2023 had only limited development potential.

Cassidy paid the university \$3.1 million for two parcels totaling 24 acres near the school, southeast of the intersection of Gold Hill Grade and Deer Park Avenue.

Cassidy submitted five different pre-applications to vest his rights to develop the larger 19-acre property under the so-called "builder's remedy" in June 2023. The pre-applications ranged from 29 residences to 75. Cassidy has since filed a formal application under the builder's remedy to build 50 residences and 14 junior accessory dwelling units at the site.

In her letter, Pitchford wrote that as the largest single neighbor to the property, the university wanted to bring two issues to the city's attention.

"First," Pitchford wrote, "is that the currently proposed scale and density of the residential development on the two vacant lots differs significantly from anything Dominican understood to be feasible or reasonable, either in our investigations of potential land use prior to the sale or during — and even immediately after — the sale, including in our discussions with the current developer. The number of units far exceeds the maximum discussed with us as likely or even possible on this land."

Second, Pitchford wrote, given the size of the project proposed, the university asks "that the city give all due weight to the corresponding health and safety considerations."

She noted that Dominican, which has more than 400 students living on campus, has three residence halls located either immediately next to or within a short distance of the proposed development.

"We urge the city to consider both our densely populated campus community and our neighbors when reviewing the application," Pitchford wrote. "For all of us, fire safety is a significant and growing concern — especially in areas like ours where wild lands meet

residential areas. This is already a neighborhood with significant challenges to swift mass evacuation, including the presence of high-density student housing and narrow roads, many made even more narrow by extensive residential parking.”

The project has sparked concerns among residents who live in the neighborhood, primarily regarding the effect it would have on evacuation of the neighborhood in case of a fire. Streets in the area are narrow.

A group called Save Dominican Valley has formed and has about 500 members. It has hired an attorney to represent it.

“Since the beginning, we’ve all wondered why Dominican University would sell more than 20 acres in the heart of San Rafael for such a low price at a time when a single-family home lot in a comparable neighborhood sells for nearly \$1 million,” said Jean-Pierre Guittard, one of the leaders of Save Dominican Valley.

Pitchford declined to participate in an interview to elaborate on the comments of her letter.

“The university retained and was advised by a range of experts, including an independent, licensed, third-party brokerage firm specializing in land sales,” Sarah Gardner, a spokesperson for the university, wrote in an email. “This firm secured inquiries from three potential buyers and ultimately two competitive bids, both of which were slightly above \$3MM — as was the final sale price for the two lots. Several years earlier the university had considered developing the land, but we were advised that the steep lot would not be suitable for either student housing or academic buildings.”

Cassidy did not respond to a request for comment.

Save Dominican Valley’s attorney, Len Rifkind, has questioned whether any of Cassidy’s applications qualify for builder’s remedy treatment. Cassidy submitted four of his five project applications before the state housing department approved San Rafael’s housing element on June 22, but the city submitted the housing element to the state on May 18, before any of the applications were filed.

Senate Bill 330, the California Housing Accountability Act, provides that if a city or county lacks a “substantially compliant” housing element, the jurisdiction is precluded from using its zoning or general plan standards to disapprove any housing project that meets certain affordability requirements. Such projects are to be approved ministerially, which means they are not subject to denial by local elected bodies. The only requirement such projects face, beyond basic safety and environmental regulations, is conformance with certain predetermined, purely objective design standards.

Cassidy is proposing to build 27 single-family homes ranging from 2,595 square feet to 3,165 square feet, 17 townhomes ranging from 1,150 square feet to 1380 square feet and six duplex dwellings of 1,805 square feet each. He would meet the state affordability requirement for the builder's remedy by also including 14 junior accessories dwellings, deed-restricted for low-income households.

San Rafael Mayor Kate Colin declined to say whether the city believes that Cassidy's project qualifies for the builder's remedy.

"This is an untested part of the law in the state of California," Colin said. "The project is still deemed incomplete by city staff. Until we have a complete application, the city will not weigh in on any potential legal implications."

Before it will deem his application complete, the city is requiring Cassidy to submit materials that he says he is not obligated to provide under the builder's remedy. The city has required that he submit both a zoning amendment and a general plan amendment.

In a March 29 letter to the city, Cassidy replied that under state law, "a local government cannot deny a housing development project for low-income households, even if the project is inconsistent with the jurisdiction's zoning and inconsistent with the general plan land use designation, unless the local government can make written findings that it has adopted a housing element in substantial compliance with the housing element law."

"This project was submitted at a time when the city was not in substantial compliance with the housing element law," he added, "and therefore the city cannot deny the project based on any purported zoning code or general plan inconsistency."