

March 5th, 2024



Protecting Marin Since 1934

April Tulley, Project Manager
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City of San Rafael
1400 5th Avenue
San Rafael, CA 94903

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SUBJECT: PUBLIC COMMENTS ON NORTHGATE TOWN SQUARE DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR); SCH# 2021120187

Dear Ms. Tulley:

Marin Conservation League (MCL) would like to thank the City of San Rafael for the opportunity to review and submit comments on the Draft Environmental Impact Report (DEIR) prepared for the Northgate Town Square (Northgate) development project.

MCL has reviewed the DEIR for alignment with its longstanding mission, which is, *“To preserve, protect and enhance the natural assets of Marin in a changing environment.”* Further, the DEIR has been reviewed taking into consideration its adopted policy positions on, among others, housing, flooding/sea level rise, and greenhouse gas emissions (including the endorsement of “full electrification”). With this, MCL respectfully submits the following DEIR comments, requests, and suggestions:

1. General Comment. MCL acknowledges that some of the DEIR information and impact findings “tier” off the San Rafael General Plan 2040 Final EIR, which was certified by the City in 2022. The San Rafael General Plan 2040 acknowledged and planned for redevelopment of the Northgate site.
2. Visual Resources. DEIR Section 4.3 assesses impacts on visual resources. A number of computer-generated visual simulations were prepared. However, the vantage points selected for the simulations are limited to local intersections and public streets. Because of the natural landforms and existing development, much of the project site and existing landmark buildings on the site are minimally visible or not visible from major public viewpoints. Nonetheless, there are several significant vantage points that were not considered or included in the analysis, which are critical to assessing visual impacts and General Plan 2040 policy consistency. Simulations should be prepared for the following critical vantage points:
 - a. Northbound Los Ranchitos Road/Las Gallinas Avenue at Northgate Drive. The project proposes the most dense and tallest buildings at the southeast portion of the mall site,

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which will result in a significant visual change from this public intersection. This location is likely the single most view of the project site where the change in character and scale will be most apparent and significant.

- b. Northbound US 101 @ N San Pedro Road near Civic Center. This vantage point is a significant, countywide scenic vista (Calif State Scenic Highways Program). Some landmark building elements of the existing mall are visible (Sears). The new, seven-story buildings will likely be visible.
- c. Marin County Public Open Space – Ridgewood/Terra Linda/Sleepy Hollow Divide. The Marin County public open space accessible from Ridgewood Drive, San Rafael is scenic resource and widely used by the public. This vantage point has a clear view of the Northgate site and the existing landmark buildings (Sears, Macy's).

Regarding shade and shadowing, the DEIR concludes that, while the project will introduce a number of taller buildings, the siting of these buildings and distance from existing, neighboring development and open space would not shade or cast a shadow on those uses. However, the DEIR does not address how or if new, future residents within the development would be impacted by shading or shadowing. Please address.

This DEIR topic section presents a limited assessment of nighttime light and glare associated with the proposed onsite, exterior lighting. The DEIR acknowledges and cites San Rafael Municipal Code Section 14.16.227, which requires that new or amended lighting comply with specific standards, subject to review and recommendation by the police department, public works department, and community development department. Further, the DEIR concludes that as the project is required to comply with this municipal code section, compliance review is underway independent of the environmental review process. The DEIR concludes that based on a review of the lighting plan submitted by the applicant, the plan generally complies with the City standards, and that the light and glare impacts would be at a less-than-significant level. The Final EIR should include more details on the City's established lighting standards and how the final lighting plan will comply with these standards through permit condition compliance. On other development projects, the City has typically required the following standards and measures, which should be noted in the Final EIR:

- Lighting fixtures/standards that include shields to direct the downward and to limit casting light and glare on adjacent properties.
- Complying with a "foot-candle" limit to ensure that elimination provides maximum safety while minimizing excessive glare.
- A photometric plan to ensure that excessive glare and "hot spots" of illumination are identified and minimized.
- Conducting a post installation inspection of exterior lighting to confirm compliance with standards and allowing for adjustments in the intensity, direction, or amount of lighting to minimize glare.

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3. Geology/Soils. DEIR Section 4.6 (Geology/Soils) assesses impacts on geology and soils. This section is well documented by current and past geotechnical investigations, which confirm that bedrock is present as close as one foot from the ground surface in one boring location with groundwater was encountered at various levels (15-33 feet below ground surface). The geotechnical investigation recommends the use of “augured cast-in-place piles” for deep foundation design. However, it is unclear if this type of foundation design necessitates “pile driving” which results in significant noise and vibration impacts during construction. While the investigation notes that jack hammering and use of hoe-rams will be necessary when encountering localized bedrock, it is unclear if “pile driving” will be required. Please clarify.
4. Hydrology and Water Quality. Comments on DEIR Section 4.7 (Hydrology and Water Quality) are as follows:
 - a. This section includes a detailed and comprehensive discussion of water supply, which is further discussed in the Utilities and Utilities Services section of the DEIR. Given the project size, an individual Water Supply Assessment (WSA) is required by the State, which was commissioned by MMWD (Marin Water). The WSA concludes the project would significantly increase potable water and reclaimed water demand to 228- and 51-acre feet/year, respectively. Marin Water has concluded that there is adequate supply to meet the demand of the project during normal years, but that other sources (e.g., groundwater from Sonoma Water) will need to be secured during drought years. DEIR Mitigation Measure HYD-2 recommends that the WSA be provided to Sonoma Water so that this agency can account for this additional water demand in its management of groundwater use. MCL closely monitors Marin Water activities and actions relative to supply and water management. Marin Water is assessing and considering other supply sources to address drought year conditions; however, these other sources have not been mentioned in the DEIR. These other sources should be noted in the Final EIR. Further, the WSA should be provided to Sonoma Water now and a documented response from this agency should be included in the Final EIR.
 - b. This section includes an assessment of stormwater runoff and the capacity of the downstream infrastructure. The DEIR concludes that the project runoff has the potential to exceed the capacity of the infrastructure during a 100-year storm event. DEIR Mitigation Measure HYD-3 recommends that a hydrologic modeling analysis be completed to confirm this conclusion, and that it may ultimately require that additional, on-site stormwater detention be incorporated into the project. While deferring the completion of a modeling analysis is acceptable mitigation for an EIR, what is uncertain are the options and opportunities for on-site stormwater detention, if it is deemed necessary. The project site is 44 acres in size, so there are ample opportunities to provide on-site stormwater detention, if the future analysis determines that it is necessary. Mitigation Measure HYD-3 should include the potential type of stormwater detention options that could be considered, as well as possible on-site locations for siting such options.

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- c. In addition to determining the need and potential location of on-site detention, the FEIR should be specific as to how the project will mitigate or eliminate the discharge of harmful pollutants into the stormwater system during site clearing and construction, and whether new stormwater drainage and conveyance facilities will be required. In the creation of a stormwater site specific pollution prevention plan, establish a baseline of stormwater water quality, a monitoring program and testing of receiving waters to protect the downstream watershed from pollutants.

In the event that mitigation is needed, a mitigation bank could be set up for the city to collect funds to support development of a Gallinas Creek Master Plan and/or implementation of future creek restoration projects in the Gallinas Creek watershed should this project (and/or future projects) require mitigation that cannot be done on the project site. Gallinas Creek and its tributaries would be the nearest possible mitigation location, which is the preference of regulatory agencies.

5. Transportation. DEIR Section 4.9 (Transportation) is comprehensive and is consistent with the scope, and technical studies recommended by the City of San Rafael Transportation Analysis Guidelines. The DEIR transportation analysis includes both CEQA-required (Vehicle Miles Traveled [VMT] analysis) and non-CEQA (Level of Service [LOS], parking, sight distance, queuing) analyses and assessments. Comments on this section are as follows:

- a. Level of Service (LOS) Analysis. While LOS review is no longer a methodology utilized for CEQA review, the City continues to assess LOS for local intersection operations. MCL is grateful that the LOS analysis has been included in the DEIR for public review and comment. While the LOS analysis is thorough, the one major concern is the methodology that was used to assess existing traffic generation with the estimated traffic that would be generated by the project. For documenting existing traffic conditions, the DEIR and the technical traffic analysis merely cite and utilize textbook trip generation rates (Institute of Transportation Engineers Manual) that are applicable for a regional shopping center. The textbook trip generation rate is based on field studies of vibrant, active regional shopping centers. MCL believes that this establishes inflated trip generation assumptions under current conditions (“baseline”), which ultimately influences the LOS impact conclusions of the project.

Under CEQA, the LOS analysis historically relied on the foundation of establishing the “environmental setting” (CEQA Guidelines 15125) to confirm “baseline” conditions which consider: 1) the physical environmental conditions as they exist at the time the notice to prepare an EIR is published; 2) where physical conditions change or fluctuate over time, existing conditions may be defined by referencing historic conditions supported by substantial evidence; and 3) existing conditions shall not include hypothetical conditions, such as those that might be allowed, but have never actually occurred, under existing permits or plans, as the baseline. This CEQA provision is largely based on case law that acknowledges and accounts for the fact that the intensity and

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operations of existing uses can (and do) change over time under the umbrella of authorized permits and land use approvals. These fluctuations result in, among others, significant increases and decreases in traffic and trip generation.

The Northgate Mall has not been a vibrant, fully operating and occupied regional shopping center in decades, and existing trip generation at the mall during these years was and has been a fraction of the textbook rate utilized in the LOS analysis. Further, while authorized permits and land use approvals allow for a fully operating and occupied shopping center, in reality, this is not likely to ever be realized in the future should the center not be redeveloped. The nature of and draw to large, regional shopping centers has substantially and permanently changed. Consumers are purchasing goods online or are drawn to other types of brick-and-mortar commercial uses not always found in a regional shopping center.

At minimum, the DEIR should have included a full discussion of and justification as to why the textbook trip generation rate was used and the factors that led to its utilization. If left unexplained, a baseline utilizing existing trip generation rather than an unrealized textbook trip generation rate would be more realistic, logical, and credible. The Final EIR should include a discussion justifying why: 1) the LOS analysis solely relies on the textbook trip generation rate, and why it is reasonable and logical; and 2) existing traffic generation at the time of the publication of the Notice of Preparation was not considered or used.

A clearly documented baseline with credible traffic and trip generation assumptions is critical as it has an impact on the following DEIR topic area findings:

- Assessing signal warrants at local intersections.
 - The threshold for triggering a Congestion Management Authority (Transportation Authority of Marin) arterial analysis = not required; based on trip generation.
 - Triggering traffic mitigation fees.
 - Assessing emergency access and impact on response time for first responders based on trip generation.
 - Assessing roadway traffic noise is likely based on the LOS study and trip generation.
- b. Signal Warrant Analysis. A signal warrant analysis was performed on most, but not all local, unsignalized intersections surrounding and abutting the project site. One critical intersection, the unsignalized is Northbound Freitas Parkway/Redwood Hwy-Civic Center Drive “approach” was not included in the signal warrant analysis. It is MCL’s understanding that Caltrans is studying the possibility of redesigning this unsignalized intersection with a “roundabout.” It is possible that this unsignalized intersection was not included in the signal warrant analysis as it is an intersection that is on land owned and managed by Caltrans. Regardless, the potential for a roundabout should be discussed in the Final EIR, along with discussion of a similar “roundabout” study that Caltrans is performing on the Southbound US101 off-ramp/Freitas Parkway signalized intersection.

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Given that this environmental document is intended to cover and serve the project approvals through the duration of project build-out (2040 through the approval of a Development Agreement), the projected and resulting traffic conditions and vehicle movement resulting from these roundabouts should be included in the Final EIR.

- c. *Pedestrian/Bicycle Connection to Civic Center SMART Station.* The DEIR provides an assessment of on-site and immediate off-site pedestrian and bicycle circulation. However, there is no discussion or assessment of off-site connectivity. As a transit-oriented development (within the designated North San Rafael Priority Development Area [PDA] and Transit Priority Area) with direct connectivity to the Civic Center SMART station, the DEIR should discuss and assess this connection along neighboring Merrydale Road. The City of San Rafael created the North San Rafael PDA with the purposeful intent of fostering transient-oriented development and connectivity between the Northgate site (as well as other sites within the PDA) and the SMART station. The City Department of Public Works has developed several plans and alternatives to develop an improved pedestrian/bicycle connection between the SMART station and the Northgate Mall site, which should be discussed in the Final EIR.
- d. *Planning for Local Public Transit - Marin Transit.* The DEIR states that the proposed project “would not interfere with existing transit facilities and would not preclude the construction of planned transit facilities ... Existing transit routes are adequate to accommodate project-generated trips, and existing transit stops are within an acceptable walking distance of the site. Consequently, the proposed project would have a less than significant impact on the transit system.”

As a project in a regionally designated Priority Development Area, it’s a responsibility of the project to not only “not interfere with existing transit facilities” but to meet the goals of either “integrating high-quality public transportation infrastructure already in place or offer transit services and commit to supporting increased mobility options and reduced automobile travel.” There is a clear role for a project of this size, located in a PDA, to include design elements and programs that support public transportation and actively support an integrated transit network.

To decrease Vehicle Miles Traveled (VMT) generated by the development as well as increased congestion (LOS) on local roads, transportation demand management measures could include making transit prominent throughout the site through good signage, and go so far as providing free bus passes to each new resident upon move-in to establish transit use familiarity and pattern as one possible mitigation for the significant and unavoidable impacts from GHG emissions generated by the project.

The FEIR should provide information on how the “project-generated” transit trips were calculated in the DEIR. It should also offer ways the project can support and better integrate bus transit in the project.

6. Greenhouse Gas (GHG) Emissions. Comments on DEIR Section 4.11 (Greenhouse Gas Emissions) are as follows:
- a. This section includes a discussion of regional, state, and federal GHG laws and regulations particularly with reference to AB32 and SB375 (Plan Bay Area 2050, the Bay Area Region’s Sustainable Communities Strategy). There is some reference to but no discussion of the North San Rafael Priority Development Area (PDA). The PDA is a Plan Bay Area 2050 implementation strategy intended to promote concentrated, higher density/intensity mixed-use development around public transit (e.g., SMART and US101) to facilitate a reduction in home-to-work travel and GHG emissions.
 - b. While DEIR includes a long list of San Rafael General Plan 2040 policies and programs related to GHG emissions impacts, absent from this list are Neighborhood Element policies and programs that are specific to the project site and the North San Rafael PDA. These policies and programs should be included as part of the strategy of the North San Rafael PDA is to reduce GHG emissions.

Regarding “operational” impacts from the project, the DEIR concludes that the proposed project would result in a net decrease in GHG emissions as compared to the existing conditions/uses. This conclusion is supported by the fact that the project: 1) is urban infill located near transit; and 2) includes many good sustainable design features (including full electrification of the residential buildings/improvements). Nonetheless, the DEIR finds that the proposed project would not meet the project design thresholds recommended by the Bay Area Air Quality Management District (BAAQMD) and would therefore be considered inconsistent with the long-term State GHG reduction goals and emission targets. The primary trigger for this finding appears to be that commercial components of the project would include the use of natural gas to service the proposed commercial kitchens. For this reason, the proposed project would conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions. Because of this conflict, the DEIR concludes that this impact would be significant and unavoidable, under both project and cumulative conditions. With a significant and avoidable impact finding, the City would be required to make “findings of overriding consideration” in order to approve the Northgate development project.

MCL believes that more could be done to reduce this significant and unavoidable impact to presumably a “less-than-significant” level by including a mitigation measure that that would require full electrification of the entire Northgate development project. Such an action and requirement would set a good example for other future development projects in San Rafael. In addition, it would foster the Countywide effort to promote full electrification through the Marin Building Electrification Plan. This issue was very poignantly addressed in the February 9, 2024, DEIR comment letter submitted to the City by Sustainable San Rafael. MCL wholeheartedly concurs with the comments and recommendations presented by Sustainable San Rafael and encourages that the City strongly consider its recommendations.

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The developer asserts that it is not feasible to limit kitchens for commercial tenants to all electric appliances and induction cooktops. Nonetheless, technology continues to change over time, and it is prudent to plan ahead. Since the developer is seeking the approval of a Development Agreement to vest this project through 2040, much will change in this time. Therefore, negotiating full electrification for build-out of the Northgate development through the Development Agreement process would responsibly address long-term GHG emissions.

- c. Regarding solar panels and battery storage, the DEIR, throughout chapters 3 and 4, has a discrepancy in language in identifying which residential buildings will include solar panels and battery storage. Examples of this are:
 - 1) Table 4.1.A, page 4.1-22, Policy C-4.2 “solar panels and battery storage for *residential buildings*;”
 - 2) 4.11.E “Battery storage would be provided in the *apartment-style residential buildings*”

This information should be stated consistently in the FEIR. Please clarify in the FEIR, if the new townhomes and Residential 1, the EAH building, will include battery storage. If that is not the case, please explain why not.

The DEIR fails to provide the location of the solar panels and battery storage and fails to identify their rated capacity. This information should be provided in the FEIR. Because the DEIR does not include the location of the solar panels and batteries, it is not possible to determine whether they were taken into consideration in the shadow studies. This information is necessary to determine if other residences will have adequate solar access for current or future clean energy infrastructure.

The DEIR does not include information about who—whether tenants, owners, or landlords—will be able to take advantage of battery backup during a power outage and how much each unit or public space will have access to backup and for how long. In the FEIR, please provide which of the residential units will be individually metered. The DEIR does not address who will benefit from the savings of avoiding peak/high-cost energy rates due to the use of battery interconnectedness. This information should be provided in the FEIR.

7. Noise. Comments on DEIR Section 4.12 (Noise) are as follows:

- a. As discussed in the DEIR, the City Noise Ordinance sets construction noise limits, with 90 dBA being a significant impact; the maximum construction vibration limit is 72 VdB. The noise analysis concludes that neighboring properties would experience increased noise during the 28-month anticipated construction period, but that the projected impacts are either: 1) below the significance thresholds (vibration limit); or 2) reduced through implementation of mitigation (DEIR Mitigation Measure NOI-1 for construction noise). As noted in the Geology and Soils topic section, the geotechnical investigation recommends “augured cast-in-place piles” for deep foundation design. It is unclear if this

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foundation design requires “pile driving” which significantly increases noise and vibration during construction. The noise analysis does not assess pile driving impacts. Please confirm that no pile driving is required.

- b. One of the potential impacts assessed is the increase in roadway noise with the addition of the project. This impact was determined to be less-than-significant. It appears that this conclusion is based on the resulting vehicle trip generation (traffic analysis, W-Trans). As noted in comments above under the Transportation section, the trip generation information under “baseline” conditions assume a fully-operating, occupied and vibrant regional shopping center. As the shopping center has been underperforming for over a decade, the trip generation assumed for the existing use seems to be inflated. Should adjustments be made in the trip generation assumptions to reflect current shopping center conditions, roadway noise impacts will need to be reassessed.

8. Cumulative impacts. Comments on DEIR page 4-2 (Cumulative Analysis Context) are as follows:

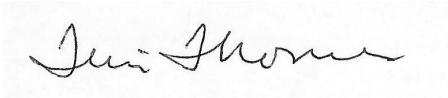
Section 15130 of the CEQA Guidelines requires that an EIR consider environmental effects of a proposed project as well as cumulative impacts. As defined in Section 15355 of the CEQA Guidelines, cumulative impacts refer to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Pursuant to CEQA Guidelines Section 15130(b)(1)(A), cumulative impacts may be analyzed by considering a list of past, present, and probable future projects producing related or cumulative impacts.

While the DEIR noted consistency with anticipated growth by the General Plan 2040 citywide, it failed to consider the potential cumulative impacts of planned developments in the project’s area. The DEIR page 4-3 stated “There are no applications for potential projects within the project area currently on file with the City. It is also therefore assumed that there would not be any projects with the vicinity of the site that would be under construction at the same time as Phase 1.” However, there are “past, present, and probable future projects” that may produce related or cumulative impacts in Terra Linda that are in various stages of planning and approvals. Though they may or may not be under construction at the same time as Phase 1 of the Northgate project, there will likely be cumulative impacts to the area that the FEIR should analyze. The list of projects should include Northgate Walk, Los Gamos Apartments, 50 Merrydale Apartments, 350 Merrydale Town Home Development, and Terra Linda Big School Capital Improvements Project and any other projects proposed before the FEIR is finalized. Please include an analysis of the cumulative impacts of these projects in the project area in the FEIR.

In closing, MCL acknowledges that there will be future public hearings to consider the merits of and action on the many planning applications for the Northgate development project. While MCL reserves this future opportunity to comment on the merits of the project and the land use/planning applications, we would like to note that the Northgate project site presents a rare

opportunity to repurpose and redevelop a declining, regional shopping center with needed housing, as well as vibrant commercial uses and attractive, publicly accessible outdoor amenities. In late 2023, MCL adopted an updated housing policy position, which contains over 50 policies. Our future comments on the merits of the project and the land use/planning applications will focus on consistency and alignment with this updated housing policy position. Again, thank you for the opportunity to comment on the Northgate Town Square DEIR. MCL looks forward to the City responding to our comments and reviewing the Final EIR.

Sincerely,

A handwritten signature in black ink, appearing to read "Terri Thomas", is centered on a light gray rectangular background.

Terri Thomas
President