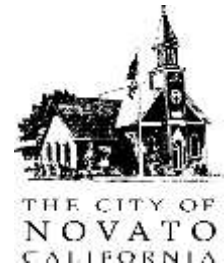


# Agenda Item 6



## PLANNING COMMISSION STAFF REPORT

### MEETING

DATE: December 18, 2017

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SUBJECT: **MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT  
CEQA MITIGATED NEGATIVE DECLARATION  
P2016-038 – GENERAL PLAN MAP AMENDMENT  
– MASTER PLAN AMENDMENT  
– PRECISE DEVELOPMENT PLAN AMENDMENT  
APN 153-220-16 & 19; 5400 HANNA RANCH ROAD**

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### REQUESTED ACTION

Conduct a public hearing to consider and adopt resolutions recommending the City Council approve a mitigated negative declaration, a General Plan Land Use Map amendment from Business and Professional Office to Light Industrial Office, and replace zoning text applicable to allowed land uses in the master plan and corresponding precise development plan for the approved, but not yet constructed, McPhail's Commercial Office Development consisting of three buildings totaling approximately 61,900 square feet on a combined 4.9 acre site.

### EXECUTIVE SUMMARY

Thompson Development Inc. ("Applicant") has submitted applications to amend the allowed land uses for the 2008, approved but yet constructed, McPhail's Commercial Office Condos consisting of three buildings and supporting site improvements (circulation, parking and landscaping) on two parcels totaling 4.9 acres. Parcel 1, 1.6+/- acres, will contain Building A, a one- and two-story building totaling 21,908 square feet and 65 parking spaces. Parcel 2, 3.3+/- acres, will contain Buildings B and C. Building B, a single story building, will contain 21,640 square feet of area, and Building C, also a single story building, will contain 18,440 square feet of area. Buildings B and C are served by 147 parking spaces. All three buildings are benefitted by integrated circulation and landscaping plans including native and ornamental trees, shrubs and ground cover (approved project plans, attachment No. 6).

The amendments sought herein, include a General Plan Land Use Map amendment for the project site from Business and Professional Office (hereafter "BPO") to Light Industrial Office (hereafter "LIO"), and amendments to the McPhail's Commercial Office Development master plan and precise development plan to replace the allowed and conditional uses (hereafter "Project"). Currently the allowed uses and uses requiring a use permit are consistent with the Business and Professional Office (hereafter "BPO") zoning standards prescribed in the Novato Municipal Code, Chapter 19 (hereafter "Zoning Ordinance"). The proposed list of permitted uses and uses requiring a use permit is a combined, but limited selection of uses currently allowed in BPO and LIO zoning

districts.

### *Background*

The Project's existing development entitlements (Master Plan, Precise Development Plan and Tentative Map) were granted by the City Council on November 11, 2008. Subsequently, on April 6, 2016, the Design Review Commission approved revisions to the site, landscaping and building designs of the Precise Development Plan, which were sought by the applicant to improve the project's marketability. However, as indicated by the applicant, due to a fairly stagnant market for professional office space and the inability to attract professional office tenant(s), they have been unable to secure capital for development of the project. Attachment No. 6 includes the approved project's plans.

### *Development Entitlements*

The Project requires the following development entitlement approvals:

- *General Plan Land Use Map Amendment:* Amend the General Plan Land Use Map by way of City Council resolution for the subject properties from BPO to LIO in order to allow the proposed uses in the Master Plan.
- *Master Plan Amendment:* Amend the existing McPhail's Commercial Office Development Master Plan, by way of an amending Ordinance, to replace existing references to uses allowed pursuant to the BPO zoning district with a combined, but limited list of uses allowed or that require a use permit in the BPO and/or LIO zoning districts. Note: the approved site, landscaping and building design of the Project, which includes building coverage, setbacks, height limit and parking requirements remains unchanged;
- *Precise Development Plan Amendment:* Amend the existing McPhail's Commercial Office Development Precise Development Plan, by way of an amending Resolution, to void references to Floor Area Ratio (FAR) and uses allowed pursuant to the BPO zoning district as specified in Table 2-7, Section 19.12.030 of the Zoning Ordinance. Note: the approved site, landscaping and building design of the Project, which includes building coverage, setbacks, height limit, and parking requirements remains unchanged

### *California Environmental Quality Act*

An Initial Study was prepared for the Project and its associated entitlement actions pursuant to the California Environmental Quality Act (CEQA) and the City's Environmental Review Guidelines. The Initial Study concluded the Project could result in potentially significant impacts in the CEQA technical categories of: Air Quality, Biological Resources, Cultural Resources, Hydrology and Water Quality. The Initial Study recommends mitigation measures to reduce the significance of the identified impacts to a less than significant level. Given the analyses, findings, and mitigations contained in the Initial Study, a Mitigated Negative Declaration is recommended to be adopted for the Project. The attached CEQA resolution (attachment No. 1) lists the Project's potentially significant impacts and corresponding mitigation measures.

A copy of the Initial Study/Mitigated Negative Declaration may be download via the following web link: [www.novato.org/mcphails](http://www.novato.org/mcphails)

*Staff Summary Analysis & Recommendation*

The Project and its associated entitlement actions were reviewed in light of all applicable policies of the 1996 Novato General Plan, and the necessary findings of approval specified the Novato Municipal Code. In all instances, the Project was found to meet the applicable policies, design criteria, and findings. In addition, the Mitigated Negative Declaration prepared for the Project is considered to meet the requirements of CEQA and includes feasible mitigation measures to avoid potentially significant environmental impacts.

Staff recommends the Planning Commission adopt the attached resolutions recommending the City Council approve a Mitigated Negative Declaration and the development entitlements for the Project.

**BACKGROUND**

Property Owner:	P & K Hanna Ranch, LLC
Applicant:	Thompson Development Inc.
Assessor's Parcel No.	153-220-16 & 19
Property Size:	4.90 acres
General Plan Designation:	Business and Professional Office (BPO); Maximum FAR of 0.40
Current Zoning:	Planned District (PD); McPhail's Commercial Office Development Master Plan; Maximum FAR of 0.29
Existing Use:	Vacant; Approved for Development
Adjacent Land Use/Zoning/Uses:	
North-	General Commercial (CG); Hanna Ranch Planned District (PD)
South-	Highways 101 and 37 - Cal Trans Right of Way
East-	Open Space (OS); Public Open Space (OS)/Baylands (B)/Flood Hazard (F2)
West-	Highway 101 – Cal Trans Right of Way followed by Medium Density Residential (R10); Planned District (PD)

**PROJECT SETTING & SITE DESCRIPTION**

The project site is located east of US Highway 101 and north of State Highway 37, along the northern terminus of Hanna Ranch Road. North of the site is the vacant 19 acre Hanna Ranch property, which received Master Plan approval for a mixed use commercial project in early 2012. The Hanna Ranch project is proposing to construct an emergency vehicle access road (EVA) to the south of their property, connecting with Hanna Ranch Rd. This road passes along the west and south of the McPhail's property, then continues on to connect with east and west bound Highway 37. West of the project site is US Highway 101. West of the highway are the multifamily residential developments of the Crossroads Village and Western Oaks Village, which are the closest residence to proposed project improvements, a distance of approximately 500 feet across the highway. Along the east property line is located the Sonoma-Marina Area Rail Transit (SMART)/North Coast Rail Authority rail line, parallel with the railroad tracks are high voltage PG & E transmission lines, and further east is open space land owned by the State of California as part of the Petaluma Marsh Wildlife Area (Novato Creek Unit).

The site consists of two parcels, one being 4.3+/- acres and the other .6+/- acres. The site was at one time improved with a cement batching plant which was removed about eleven years ago. Access to the property is via Hanna Ranch Rd. and Marsh Dr. which connect to Highway 37. The property was graded generally flat for surface drainage purposes, with elevations ranging from one to seven feet. More recently, in February of 2017, a surcharge grading permit was issued whereby additional fill was added to portions of the site to induce ground settlement to further stabilize the site prior to construction.



## **PROJECT DESCRIPTION**

Thompson Development Inc. (“Applicant”) submitted applications to amend the allowed land uses for the 2008, approved but yet constructed, McPhail’s Commercial Office Condos consisting of three buildings and supporting site improvements (circulation, parking and landscaping) on two parcels totaling 4.9 acres. Parcel 1, 1.6+/- acres, will contain Building A, a one- and two-story building totaling 21,908 square feet and 65 parking spaces. Parcel 2, 3.3+/- acres, will contain Buildings B and C. Building B, a single story building will contain 21,640 square feet of area, and Building C, also a single story building, will contain 18,440 sf of area. Buildings B and C are served by 147 parking spaces. All three buildings are benefitted by integrated circulation and landscaping plans including native and ornamental trees, shrubs and ground cover (approved site, landscape and building plans attached for reference).

The amendments sought herein, include a General Plan Land Use Map amendment for the project site from Business and Professional Office (hereafter “BPO”) to Light Industrial Office (hereafter “LIO”), and amendments to the McPhail’s Commercial Office master plan and precise development plan to replace the allowed and conditional uses for the property/project. Currently the allowed uses and uses requiring a use permit are consistent with the Business and Professional Office (hereafter “BPO”) zoning standards prescribed in the Novato Municipal Code, Chapter 19 (hereafter “Zoning Ordinance”). The proposed list of permitted uses and uses requiring a use permit is a combined, but limited selection of uses currently allowed in BPO and LIO zoning districts; the following is a list of the proposed principally permitted uses and those uses requiring a use permit:

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required
- Restaurant with Alcohol Sales - Use Permit required
- Auto Sales – Use Permit required

Note: With the exception of Fleet Vehicle Parking, all listed uses proposed are based on the definitions for each as provided in [Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Zoning Ordinance](#) (attachment 6). Regarding Fleet Vehicle Parking, the following definition therefor is proposed:

*Fleet Vehicle Parking: Fleet Vehicle Parking can include groups of nine or more motor vehicles owned or leased by a business, government agency or other organization rather than by an individual or family. Typical examples are vehicles operated by car rental companies, taxi cab companies, public utilities, public bus companies, parcel delivery service, equipment (e.g., plumbing, electrical, landscaping, solar) installation and repair service, and police departments.*

*Additionally, fleet vehicle does not include heavy equipment or vehicles designed for executing construction tasks.*

As explained by the applicant in their written request (**attachment No. 5**) for the land use amendments, the types of uses allowed in the current Master Plan/Precise Development Plan, which are consistent with the City’s BPO zoning district, are restrictive and do not afford the types of business activities sought after by many companies currently in the market for office space. To address this land use limitation, the applicant has identified a select list of uses allowed in the City’s BPO and/or LIO zoning districts that they believe will better serve and attract a wider range of companies. Additionally, following early discussions with City staff, the applicant agreed to additional City land use controls. These added controls include indoor only activities for Equipment Rental, and the requirement to obtain a use permit for those uses (specifically Fleet Vehicle Parking, Minor Auto Repair and Maintenance, Restaurant and Auto Sales) that are identified to potentially create other impacts e.g. parking, visual, noise etc. if left unregulated.

**NEED FOR PLANNING COMMISSION ACTION**

The development entitlements requested for the Project require the Planning Commission to review and provide a recommendation to the City Council. The Planning Commission will conduct a public hearing regarding the Project and consider the staff report, resolutions, environmental review documentation, and public comments prior to making a recommendation to the City Council. The Planning Commission's review and recommendation will be based on the findings required to approve a general plan land use map amendment, a master plan amendment, and a precise development plan amendment.

**ENVIRONMENTAL ASSESSMENT**

An Initial Study was prepared in compliance with the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines to determine if approval of the requested entitlement actions and the subsequent construction and operation of the Project would result in significant environmental impacts. The Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA technical categories of: Air Quality, Biological Resources, Cultural Resources, and Hydrology and Water Quality. However, feasible mitigation measures have been created to reduce these impacts to a less than significant level. Therefore, a Mitigated Negative Declaration is recommended to be adopted for the Project. The following table summarizes the potential impacts of the project and the corresponding mitigations.

Mitigation No.	Potential Area of Impact & Mitigation Measure	Implementation Verification	Responsible Party
<b>Air Quality AIR-1</b>	The following emissions control measures shall be implemented during project construction. The City of Novato shall verify compliance with items 1 and 9 (below) prior to issuance of demolition, grading, and/or building permits. Items 2 through 8 (inclusive) shall be included as notes on construction plans and subject to verification through field inspections. 1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of	Review of construction plans.  Field inspections.	City of Novato

Mitigation No.	Potential Area of Impact & Mitigation Measure	Implementation Verification	Responsible Party
	<p>Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:</p> <ol style="list-style-type: none"> <li>a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.</li> <li>b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.</li> <li>c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.</li> </ol> <ol style="list-style-type: none"> <li>2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.</li> <li>4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.</li> <li>6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.</li> <li>8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.</li> <li>9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.</li> </ol>		

Mitigation No.	Potential Area of Impact & Mitigation Measure	Implementation Verification	Responsible Party
<b>Biological Resources BIO-1</b>	If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.	Review results of the pre-construction survey.  If a nest is present, monitor the site for compliance with mitigation measure.	City of Novato
<b>Cultural Resources CUL-1</b>	In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.	A qualified archaeologist will ensure that construction workers comply with mitigation measure consistent with State and Federal law.	City of Novato
<b>CUL-2</b>	If a suspected paleontological fossil is encountered, project construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, the find shall be recorded and salvaged by a qualified paleontologist.	A qualified paleontologist will ensure that construction workers comply with mitigation measure consistent with State and Federal law.	City of Novato
<b>CUL-3</b>	If human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.	Verification of compliance with mitigation measure consistent with State law.	City of Novato and County Coroner
<b>Hydrology and Water Quality H-1</b>	Site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be	Construction Project Manager	City of Novato Building Division



Mitigation No.	Potential Area of Impact & Mitigation Measure	Implementation Verification	Responsible Party
	anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.		

A resolution addressing the CEQA documentation for the Project is provided as attachment No. 1. The resolution describes each potential impact and its corresponding mitigation measure(s) and findings/statements of fact supporting the recommendation to adopt a Mitigated Negative Declaration.

All mitigation measures are recommended to be applied to the Project as conditions of approval.

**STAFF ANALYSIS**

***General Plan Land Use Map, LUI Amendment***

As described above, the Project includes a general plan amendment to change the Land Use Map, LU 1, designation applicable to the 4.9 acre combined sites from Business and Professional Office (BPO) to Light Industrial Office (LIO). See Exhibit A to the draft General Plan Land Use Map Resolution, **Attachment 2**. Pursuant to LU Table 2 in the Land Use Chapter of the General Plan the LIO designation allows for “*A wide variety of manufacturing, office, wholesale, service, and processing uses that do not generate excessive adverse environmental impacts. Other uses permitted include: distribution, warehousing and agricultural product sales and services, and repair; food and drink processing; local serving retail; solid waste transfer facilities, recycling facilities, and other similar uses.*” Staff finds that all of the uses proposed for the master plan amendment are consistent with this designation.

Note: Should the proposed General Plan amendment be granted and the McPhail’s Commercial Office Development not be developed, the 4.90 acre project site would remain available for a different development consistent with the General Plan’s LIO Land Use designation. However, an alternate proposal for LIO development/use of the site would require the City’s review and approval of an alternate Master Plan and Precise Development Plan, and potentially a new tentative map if the development encroached upon the proposed parcel boundaries and/or substantially altered the tentative map improvements currently approved. An alternate proposal would also be subject to additional environmental review for any increase in or new environmental impacts.

Staff also notes that the amount or massing of development allowed, which is locally referred to as the Floor Area Ratio (FAR) from BPO to LIO does not change. The General Plan assigns a maximum FAR of 0.4 to both BPO and LIO so the resulting FAR from BPO to LIO remains unchanged.

The findings of Section 19.56.070.A. of the Novato Municipal Code must be made to approve an amendment to the Novato General Plan Land Use Map. These findings are listed below for Planning Commission reference.

1. The proposed amendment is internally consistent with the general plan;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the city;
3. The proposed amendment would further the goals, objectives, policies and programs of the general plan; and
4. The site is physically suitable (including consideration of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested/anticipated land use.

The Project has been reviewed to determine whether assigning the LIO land use designation to a 4.9 acre area, the Project Site, and the subsequent construction and operation of the McPhail's Commercial Office Development would be consistent with the findings above. In all instances, the proposed general plan amendment and previously approved project were found to meet the noted findings. The specific facts to support this position are provided in the draft resolution recommending approval of the proposed general plan amendment presented as **Attachment No. 2**.

### ***Master Plan Amendment***

The McPhail's Commercial Office Development Master Plan, adopted in 2008, approved development of the 4.9 acre combined parcels with a 62,000 square foot office complex (equivalent to an FAR of 0.29) comprised of three separate buildings and accompanying surface parking to accommodate uses consistent with the BPO zoning district in the Novato Zoning Ordinance. To permit the revised list of uses included under the Project Description section of this report, the McPhail's Commercial Office Development Master Plan must be amended to replace references to BPO with a select list of uses allowed in the BPO and/or LIO zoning districts, and the addition of Fleet Vehicle Parking as defined under the Project Description.

For reference, a master plan is adopted by City Council by ordinance and is intended to establish acceptable land use type(s) and intensity of development (floor area ratio) on non-residential properties zoned Planned District (PD). Thus, to accommodate the applicant's request, the McPhail's Commercial Office Development Master Plan must be amended by way of an amending Ordinance to replace references to BPO with a select list of uses allowed in the BPO and/or LIO zoning districts, and add Fleet Vehicle Parking as listed and defined under the Project Description above, and incorporated in the Commission's draft resolution recommending amendments to the McPhail's Commercial Office Development Master Plan (**attachment No. 3**). As previously noted, no change in the approved building development intensity of 0.29 FAR or 62,000 square feet is proposed.

The findings of Section 19.042.060.E.3 of the Novato Municipal Code must be made to approve the proposed amendments to the McPhail's Commercial Office Development Master Plan. These findings are:

1. The proposed Master Plan development is in conformance with the applicable goals and policies of the General Plan and any applicable specific plan;
2. The proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.
3. The proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and
4. The location, access, density/building intensity, size and type of uses proposed in the Master Plan are compatible with the existing and future land uses in the surrounding neighborhood.

The proposed amendments to the McPhail's Commercial Office Development Master Plan permitted and conditional land uses have been reviewed in light of the required findings above. In all instances, the proposed use amendments to the Master Plan are considered to meet the findings above. The specific facts to support this position are provided in the resolution recommending approval of the proposed Master Plan amendments presented as attachment **No. 3**.

### ***Precise Development Plan Amendments***

The Project Site design is subject to development regulation by the McPhail's Commercial Office Development Precise Development Plan, which includes development standards, such as minimum setbacks, building heights and required parking, and reference to approved project design plans. No changes are proposed herein to the development standards nor the approved project design plans of the Precise Development Plan. However, staff notes that the existing Precise Development Plan also states an allowed development intensity (maximum FAR of 0.4), and uses consistent with the provisions of the BPO zoning district. As described under the recommended Master Plan Amendments above, pursuant to Section 19.42.060.E of the Zoning Ordinance, the intensity of development i.e. maximum square foot approval of 62,000 square feet, which is equivalent to an FAR of 0.29, and allowed uses are more accurately contained in and enforced through the provisions of the Master Plan. For this reason, and by way of the attached resolution (**attachment No. 4**), staff is recommending an amendment to the McPhail's Commercial Office Development Precise Development Plan that development intensity and use provisions currently stated in the Precise Development Plan be removed.

The findings of Section 19.042.060.F.3 of the Novato Municipal Code must be made to approve the proposed precise development plan amendment for the Project. These findings are listed below for Planning Commission reference.

- a. The proposed precise development plan is consistent with the general plan, any applicable specific plan, and the approved master plan;

- b. The proposed precise development plan would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than might otherwise occur from more traditional development applications;
- c. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;
- d. The proposed precise development plan standards are reasonably suited to the specific characteristics of the site, and are compatible with the existing and future land uses in the surrounding neighborhood;
- e. The subject site is:
  - (1) Physically suitable for the type and density/intensity of development being proposed;
  - (2) Adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this title; and
  - (3) Served by streets and pedestrian facilities adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

The Project has been reviewed to determine whether the proposed Precise Development Plan amendments to void all reference to allowed development intensity (maximum FAR of 0.4), and uses consistent with the provisions of the BPO zoning district would meet the noted findings of approval. The specific facts to support this position are provided in the Commission's draft resolution, **attachment No. 4**, recommending approval of said Precise Development Plan content amendments.

### **COMMISSION ALTERNATIVES**

- 1. Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested General Plan Land Use Map Amendment, Master Plan amendment, Precise Development Plan amendment for the Project by adoption of the attached resolutions;

2. Modify any of the proposed resolutions and recommend adoption of a Mitigated Negative Declaration and approval of the requested General Plan Land Use Map Amendment, Master Plan amendment, Precise Development Plan amendment;
3. Recommend additional environmental review be completed prior to making a recommendation to the City Council regarding the requested General Land Use Plan Map Amendment, Master Plan amendment, Precise Development Plan amendment for the Project;
4. Recommend the City Council not adopt a Mitigated Negative Declaration and deny the requested General Plan Land Use Map Amendment, Master Plan amendment, Precise Development Plan amendment;
5. Continue the public hearing with direction to staff.

### **RECOMMENDATION**

Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested General Plan Land Use Map amendment, Master Plan amendment, and Precise Development Plan amendment for the Project by adoption of the attached resolutions.

### **FURTHER ACTION**

The Planning Commission's recommendation regarding the Project will be forwarded to the City Council for consideration at a future public hearing.

### **ATTACHMENTS**

1. Resolution - Mitigated Negative Declaration
2. Resolution - General Plan Lan Use Map Amendment
3. Resolution - Master Plan Amendment
4. Resolution - Precise Development Plan Amendment
5. Applicant's written request for the land use amendment, letter dated October 30, 2017
6. [Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Zoning Ordinance](#)
7. Project Plans as approved

### **DOCUMENTS AVAILABLE FOR DIGITAL DOWNLOAD**

The following Project documents are available for download at:

1. McPhail's Commercial Office Development - CEQA Initial Study/Mitigated Negative Declaration: [www.novato.org/mcphails](http://www.novato.org/mcphails)

# Agenda Item 6 - Attachment 1

## PLANNING COMMISSION RESOLUTION

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION FOR MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT (116038) PROPOSED AT 5300 HANNA RANCH ROAD, APNs 153-220-16 AND -19, INVOLVING A GENERAL PLAN LAND USE MAP AMENDMENT, MASTER PLAN AMENDMENT, AND PRECISE DEVELOPMENT PLAN AMENDMENT

WHEREAS, the City of Novato ("City") received applications for a General Plan Land Use Map amendment from Business and Professional Office to Light Industrial Office, Master Plan amendment to replace zoning text applicable to allowed land uses and corresponding Precise Development Plan amendment for the McPhail's Commercial Office Development (hereafter "Project") consisting of three buildings totaling approximately 61,900 square feet on a combined 4.9 acre site located at 5300 Hanna Ranch Road, APNs 153-220-16 and -19; and

WHEREAS, the general plan land use map amendment application requests the City change the land use designation from Business and Professional Office (hereafter "BPO") to Light Industrial Office (hereafter "LIO") for the properties, APNs 153-220-16 & -19, which contain the Project to allow for alternate land use types within the Project; and

WHEREAS, the master plan amendment application requests the City amend the Project's master plan to allow alternate land use types within the Project; and

WHEREAS, the precise development plan amendment application requests the City amend the Project's precise development plan to void all reference to Floor Area Ratio in the development standards and to amend the stated permitted uses and uses requiring a use permit currently included in the precise development plan; and

WHEREAS, the City determined the Project, and its associated actions are subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the currently approved McPhail's Commercial Office Development included the adoption of a mitigated negative declaration, Resolution No. 86-08, a Master Plan, Ordinance No. 1537, a Precise Development Plan, Resolution No. 87-08, a Tentative Map, Resolution No. 87A-08, and Design Review, Resolution No. 88-08; and

WHEREAS, an Initial Study was prepared in compliance with the provisions of CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources and the procedures for review set forth in the City of Novato Environmental Review Guidelines. The Initial Study considered the Project and its setting and the potential effects of the construction and operation of the Project on the basis of the technical subjects (e.g., aesthetics, biological resources, air quality)

included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project and its associated applications (general plan land use map amendment, master plan amendment, and precise development plan amendment could result in potentially significant impacts to the environment in the CEQA topical areas of Air Quality, Biological Resources, Cultural Resources, and Hydrology and Water Quality. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to a less-than-significant level; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with the California Environmental Quality Act (CEQA), the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project and its associated actions could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the Initial Study/Mitigated Negative Declaration (IS/MND); and

WHEREAS, public notices announcing a 20-day public review period for the IS/MND, beginning on November 28, 2017, and ending on December 18, 2017, and the Planning Commission's hearing on the project were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the Marin County Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on November 28, 2017; and

WHEREAS, the Planning Commission held a public hearing on December 18, 2017, and considered all oral and written comments on the IS/MND, the Project, and the actions associated with the Project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend the City Council adopt a Mitigated Negative Declaration for the Project and its associated actions based on the following findings:

**Section 1. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the currently approved McPhail's Commercial Office Development mitigated negative declaration, Resolution No. 86-08, the currently approved Master Plan, Ordinance No. 1537, the currently approved Precise Development Plan, Resolution No. 87-08, the approved Tentative Map, Resolution No. 87A-08, and approved Design Review, Resolution No. 88-08, (2) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (3) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, and the Project's associated development entitlement requests (4) the evidence, facts, findings and other

determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, and the Project's associated development entitlement requests (7) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the IS/MND, the Project, and the Project's associated development entitlement requests (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

**Section 2. Initial Study/Mitigated Negative Declaration Considered and Adopted**

Based upon information in the IS/MND for the Project, dated October 2017, the Record as described above, and all other matters deemed material and relevant prior to adopting this resolution, the Planning Commission hereby recommends the adoption of a Mitigated Negative Declaration for the Project and its associated development entitlements based on the following:

- a. The IS/MND has been completed in compliance with the California Environmental Quality Act (California Public Resources Code § 21000 - 21178) and the City of Novato Environmental Review Guidelines; and
- b. The IS/MND was presented to the Planning Commission, which, at a hearing before the public, reviewed and considered the information contained in the Mitigated Negative Declaration/Initial Study prior to making a recommendation to the City Council regarding the Project and its associated development entitlements; and
- c. The Mitigated Negative Declaration reflects the City's independent judgment and analysis as Lead Agency.

**Section 3. CEQA Findings**

The Planning Commission hereby adopts and recommends to the City Council the adoption of the IS/MND dated October 2017, complete with the included Findings and Facts as set forth in Exhibit A attached hereto and incorporated herein by reference, and based thereon and on the Record as a whole, the Planning Commission hereby finds and recommends that the City Council find that all significant environmental effects of the Project and its associated development entitlement actions have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated or substantially lessened as set forth in the IS/MND. Based upon the foregoing, the Planning Commission finds, determines, and recommends that the City Council find and determine that the Project and its associated actions will not have a significant effect upon the environment.



#### **Section 4. Mitigation, Monitoring, and Reporting Program**

The Planning Commission hereby recommends the City Council adopt the mitigation measures set forth in the IS/MND and its accompanying Mitigation, Monitoring, and Reporting Program ("MMRP"), set forth in Exhibit B, pursuant to Public Resources Code Section 21081.6, which is a program designed to ensure compliance with the project changes and mitigation measures imposed to avoid or substantially lessen the significant effects identified in the Mitigated Negative Declaration/Initial Study and said mitigation measures are described in the MMRP included therein and incorporated herein by reference.

#### **Section 5. Indemnity and Time Limitations**

- a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the actions at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.
- b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.
- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the developer.
- d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.

- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 18th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 18th day of December, 2017.

---

Chair

Attachments: Exhibit A – Statement of CEQA Findings and Facts  
Exhibit B – Mitigation Monitoring and Reporting Program

## EXHIBIT A

### MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT IS/MND STATEMENT OF CEQA FINDINGS AND FACTS

CEQA requires that if an Initial Study/Mitigated Negative Declaration identifies one or more potentially significant environmental effects for a proposed project then the lead agency must make certain findings for each of those potentially significant effects. These findings must be accompanied by a brief explanation of the facts supporting each finding.

The Findings and Facts set forth below do not repeat the full discussion of impacts and mitigation measures contained in the document comprising the IS/MND, and the Record for the Project and its associated development entitlement actions. Instead, the Findings provide a brief summary description of impacts, along with a reference to the location in the IS/MND that describes in detail the setting and potentially significant impacts. The Facts that follow in turn reference the specific mitigation measures for such impacts. All Mitigation Measures are set forth in full in the Mitigation Monitoring and Reporting Program are included in the IS/MND and are incorporated herein by reference.

**(1) FINDINGS REGARDING POTENTIALLY SIGNIFICANT IMPACTS THAT WILL BE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY THE IMPLEMENTATION OF MITIGATION MEASURES.**

**A. Air Quality Impact:** Fugitive dust emissions during project construction could be potentially significant unless adequately controlled (IS/MND p. 14 - 22).

**Finding:** Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project that will avoid or substantially lessen the potentially significant environmental impact related to the release of fugitive dust during construction of the Project by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure AIR-1.

**Facts in Support of Finding:** Mitigation Measure AIR-1 has been proposed in the IS/MND to reduce the release of fugitive dust during construction of the Project. During any construction-period ground disturbance, the applicant shall ensure that the project contractor implements measures to control dust and diesel equipment exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD), as listed below, would reduce potential air quality impacts associated with grading and new construction to a less-than-significant level. The contractor is required to implement the following best management practices:

1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-

vehicle fleet used for project construction meets the following requirements:

- a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.
  4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
  6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
  8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
  9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

**B. Biological Impact:** Removal of trees and/or project construction activities may result in the inadvertent destruction of active bird nests unless appropriate precautions are followed (IS/MND p. 23 - 26)

**Finding:** Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to disturbance of nesting birds by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure BIO-1.

**Facts in Support of Finding:** Mitigation Measure BIO-1 has been proposed in the Mitigated Negative Declaration/Initial to reduce and/or avoid the Project's potential to disturb nesting birds during construction of the Project. Mitigation Measure BIO-1 requires that if tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.

**C. Cultural Resources Impact:** The Project has the potential to cause an adverse change in the significance of an archeological resource (IS/MND p. 26 - 28)

**Finding:** Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to the disturbance of unknown buried archeological resources by implementation of the Mitigation Measures CUL-1, CUL-2 and CUL-3 identified in the IS/MND.

**Facts in Support of Finding:** Mitigation Measures CUL-1, CUL-2 and CUL-3 have been proposed in the IS/MND to ensure the comprehensive protection of unknown, buried cultural resources as follow: Mitigation Measure CUL-1 requires that in the event archaeological resources are exposed during construction, all work shall stop and the applicant shall notify the Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer and a qualified archaeologist to determine if further study, testing, recording and/or data recovery is warranted. Mitigation Measure CUL-2 requires that if a suspected paleontological fossil is encountered,

project construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, the find shall be recorded and salvaged by a qualified paleontologist. Mitigation Measure CUL-3 requires that if human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.

- D. Hydrology and Water Quality Impact:** Post construction storm water runoff has the potential to impact water quality with pollutants and/or particulate matter (IS/MND p. 41 - 45)

**Finding:** Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to storm water runoff post construction by implementation of the Mitigation Measure identified in the IS/MND as Mitigation Measure H-1.

**Facts in Support of Finding:** Mitigation Measure H-1 has been proposed in the IS/MND to ensure the protection of water quality from storm water runoff. Mitigation Measure H-1 stipulates that site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

**EXHIBIT B**  
**Mitigation Monitoring and Reporting Program Checklist**

Mitigation Measure No.	Mitigation Measure/Project Design Feature	Method of Verification	Timing of Verification			Responsible Party	Completed		Comments
			Pre Const.	During Const.	Post Const.		Initials	Date	
<i>Air Quality</i>									
<b>AIR-1</b>	<p>The following emissions control measures shall be implemented during project construction. The City of Novato shall verify compliance with items 1 and 9 (below) prior to issuance of demolition, grading, and/or building permits. Items 2 through 8 (inclusive) shall be included as notes on construction plans and subject to verification through field inspections.</p> <ol style="list-style-type: none"> <li>1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:               <ol style="list-style-type: none"> <li>a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.</li> <li>b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and</li> </ol> </li> </ol>	<p>Review of construction plans.</p> <p>Field inspections.</p>	X	X		City of Novato			

## EXHIBIT B

### Mitigation Monitoring and Reporting Program Checklist

Mitigation Measure No.	Mitigation Measure/Project Design Feature	Method of Verification	Timing of Verification			Responsible Party	Completed		Comments
			Pre Const.	During Const.	Post Const.		Initials	Date	
	<p>shall have Level 3 Diesel Particulate Filters.</p> <p>c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.</p> <p>2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</p> <p>3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.</p> <p>4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</p> <p>5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.</p> <p>6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</p> <p>7. Idling times shall be minimized either by shutting equipment off</p>								



**EXHIBIT B**  
**Mitigation Monitoring and Reporting Program Checklist**

Mitigation Measure No.	Mitigation Measure/Project Design Feature	Method of Verification	Timing of Verification			Responsible Party	Completed		Comments
			Pre Const.	During Const.	Post Const.		Initials	Date	
	<p>when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.</p> <p>8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.</p> <p>9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.</p>								
<i>Biological Resources</i>									
<b>BIO-1</b>	If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for	Review results of the pre-construction survey.	X	X		City of Novato			

## EXHIBIT B

### Mitigation Monitoring and Reporting Program Checklist

Mitigation Measure No.	Mitigation Measure/Project Design Feature	Method of Verification	Timing of Verification			Responsible Party	Completed		Comments
			Pre Const.	During Const.	Post Const.		Initials	Date	
	any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.	If a nest is present, monitor the site for compliance with mitigation measure.							
<i>Cultural Resources</i>									
<b>CUL-1</b>	In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA	A qualified archaeologist will ensure that construction workers comply with mitigation measure consistent with State and Federal law.		X		City of Novato			

**EXHIBIT B**  
**Mitigation Monitoring and Reporting Program Checklist**

Mitigation Measure No.	Mitigation Measure/Project Design Feature	Method of Verification	Timing of Verification			Responsible Party	Completed		Comments
			Pre Const.	During Const.	Post Const.		Initials	Date	
	(Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.								
<b>CUL-2</b>	If a suspected paleontological fossil is encountered, project construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, the find shall be recorded and salvaged by a qualified paleontologist.	A qualified paleontologist will ensure that construction workers comply with mitigation measure consistent with State and Federal law.		X		City of Novato			
<b>CUL-3</b>	If human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.	Verification of compliance with mitigation measure consistent with State law.		X		City of Novato and County Coroner			
<i>Hydrology and Water Quality</i>									
<b>H-1</b>	Site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan	Construction Project Manager	X	X		City of Novato Building Division			



# Agenda Item 6 - Attachment 2

## PLANNING COMMISSION RESOLUTION

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NOVATO RECOMMENDING TO THE CITY COUNCIL APPROVAL OF AN AMENDMENT TO THE NOVATO GENERAL PLAN LAND USE MAP TO AMEND THE GENERAL PLAN LAND USE DESIGNATION APPLICABLE TO THE COMBINED PARCELS AT 5400 HANNA RANCH ROAD, APNS 153-220-16 & -19 FROM BUSINESS AND PROFESSIONAL OFFICE (BPO) TO LIGHT INDUSTRIAL OFFICE (LIO)

WHEREAS, the Novato General Plan was adopted by the City Council in 1996; and

WHEREAS, the City of Novato ("City") received an application (P2016-038) proposing to amend the General Plan Land Use Map (Land Use Map LU 1) to change the land use designation assigned to two parcels located at 5400 Hanna Ranch Road, APNs 153-220-16 & -19 (hereafter "Parcel"), from Business and Professional Office (BPO) to Light Industrial Office (LIO) (hereafter "Amendment"); and

WHEREAS, in addition to the application for a General Plan Amendment, the Applicant has also submitted applications for a Master Plan Amendment and Precise Development Plan Amendment (collectively, the Project Entitlements); and

WHEREAS, the Parcel is currently assigned the BPO land use designation of the Novato General Plan; and

WHEREAS, the Amendment is requested to amend the land use designation applicable to the Parcel as depicted in Exhibit A included herewith from BPO to LIO which would permit development of the McPhail's Commercial Office Development consisting of three buildings totaling approximately 61,900 square feet on the 4.9 acre Parcel as currently approved by the McPhail's Commercial Office Development Master Plan, Ordinance No. 1537, and Precise Development Plan, Resolution No. 87-08; and

WHEREAS, the currently approved McPhail's Commercial Office Development included the adoption of a mitigated negative declaration, Resolution No. 86-08, a Master Plan, Ordinance No. 1537, a Precise Development Plan, Resolution No. 87-08, a Tentative Map, Resolution No. 87A-08, and Design Review, Resolution No. 88-08; and

WHEREAS, a Mitigated Negative Declaration/Initial Study ("MND/IS") was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City of Novato Environmental Review Guidelines, which analyzed the Amendment, the development entitlements required for the Project, including a master plan amendment and a

precise development plan amendment, and the construction and operation of the Project itself, to determine if these amendments to the original entitlements would result in significant physical impacts to the environment; and

WHEREAS, the MND/IS did not identify any significant environmental impacts arising from the Amendment, the other development entitlements required for the Project, or the construction and operation of the Project itself that could not be mitigated to a less than significant level; and

WHEREAS, by separate resolution, Resolution No. \_\_\_\_\_, adopted prior hereto, the Planning Commission did make findings and recommend that the City Council adopt a Mitigated Negative Declaration for the Amendment, the other Project Entitlements required for the Project, and the construction and operation of the Project, and did consider the MND/IS prior to taking action on the Project and its required Project Entitlements; and

WHEREAS, public notices describing the Planning Commission's public hearing on the Amendment and the Project's other associated Project Entitlements were sent to all affected property owners within 600-feet of the boundaries of the Parcel, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on November 28, 2017; and

WHEREAS, the Planning Commission held a public hearing on December 18, 2017, to consider and receive public testimony on the Project, including the Amendment and the other Project Entitlements.

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby finds and resolves as follows:

**Section 1. Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section 2. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation on the Amendment includes, but is not limited to: (1) the currently approved McPhail's Commercial Office Development mitigated negative declaration, Resolution No. 86-08, the currently approved Master Plan, Ordinance No. 1537, the currently approved Precise Development Plan, Resolution No. 87-08, the approved Tentative Map, Resolution No. 87A-08, and approved Design Review, Resolution No. 88-08, (2) the Mitigated Negative Declaration/Initial Study/Errata (collectively "MND/IS") and the appendices and technical reports cited in and/or relied upon in preparing the MND/IS, (3) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the MND/IS, the Amendment, and

the Project's other associated Project Entitlements (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR, the Novato Municipal Code, (6) all designs, plans, studies, data and correspondence submitted to the City in connection with the MND/IS, the Amendment, the Project, and the Project's associated Project Entitlements, (7) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the MND/IS, the Amendment, the Project, and the Project's associated Project Entitlements, (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

### **Section 3. Findings**

The Planning Commission hereby makes the following findings as required by Section 19.56.070.A. of the Novato Municipal Code with the respect to the Amendment:

1. The proposed amendment is internally consistent with the General Plan;

**Facts in Support:** The Amendment would assign a consistent land use designation to the 4.9 acre Parcel as depicted in Exhibit A, attached hereto and incorporated herein by reference, and permit the Project's proposed use and approved development intensity. Further, changing the land use designation applicable to the Parcel from BPO to LIO, is deemed compatible with surrounding use designations, namely lands to the north designated General Commercial, would not adversely impact the existing circulation system as determined through the Initial Study prepared for the Project, and is expected to attract a wider range of companies that in turn are expected to increase local employment and income.

Based on the facts above, the Amendment would not conflict with any goal, objective, policy, or program of the Novato General Plan. As set forth below in Finding 3, the Amendment would further applicable policies of the Novato General Plan. Based on these observations, the Amendment is hereby found to be internally consistent with the Novato General Plan.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the city;

**Facts in Support:** Approval of the Amendment would result in the assignment of the LIO land use designation to a 4.9 acre Parcel. This action is intended to assign a consistent land use designation to the entirety of the Parcel. The Amendment would support the construction and operation of the Project.

A CEQA Mitigated Negative Declaration/Initial Study ("MND/IS") was prepared for the Amendment and the other Project Entitlements required for the Project to determine if approval of these requests and the subsequent construction and operation of the Project would result in

significant physical impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including future occupants of the Project, nearby residents, building occupants, and workers, and the City's residents at large. These topics include: aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, population/housing, recreation, transportation/traffic, and utilities/services. In no instance did the MND/IS identify any significant impacts associated with Amendment or the Project that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The mitigation measures presented in the MND/IS will be applied to the Project as conditions of approval.

The Project will improve public health, safety, and welfare by providing for both quality commercial office and, now, light industrial e.g. wholesale distribution and light manufacturing operations to meet growing business and employment demands for said facilities in the community and is therefore considered to be beneficial to the public interest.

Based on the conclusions and recommended mitigation measures presented in the MND/IS, the Amendment and the subsequent construction and operation of the Project would not be detrimental to the health, safety, convenience, or welfare of the public, including future occupants, nearby residents and workers, and the City's residents at large.

3. The proposed amendment would further the goals, objectives, policies and programs of the General Plan;

**Facts in Support:** The Amendment would support the construction and operation of the Project, which has been reviewed against applicable policies of the Novato General Plan. Based on this review, the Amendment is considered to be consistent with and advance all applicable policies of the General Plan, as documented in Exhibit B attached hereto and incorporated herein by reference. Exhibit B lists each applicable policy of the General Plan and details facts supporting the Amendment and the Project's consistency therewith.

4. The site is physically suitable (including consideration of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested/anticipated land use.

**Facts in Support:** The Project accompanying the Amendment was presented to the Novato Design Review Commission at public hearings on December 2, 2015, March 2, 2016 and lastly for a formal design decision on April 6, 2016. At the April 6, 2016 hearing, the Design Review by adopted a motion approved the final site design, building architecture and landscaping for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate mass/scale, and generally acceptable architectural concept. The Design Review Commission made the observation the Project would be compatible with the characteristics of the Project Site and surrounding area. The Design Review Commission's recommendation was based on the required findings for Design Review, including applicable design related policies of the Novato General Plan.



The Parcel and Project would receive water service from the North Marin Water District and sewer service from the Novato Sanitary District. Both Districts' were sent a referral describing the proposed Amendment and the accompanying Project, including plan documents. The North Marin Water District indicated it has a water main located adjacent to the Parcel and can serve the Project. The Novato Sanitary District indicated it has capability to serve the Project.

A CEQA Mitigated Negative Declaration/Initial Study ("MND/IS") was prepared for the Amendment and the other development entitlements required for the Project to determine if approval of these requests and the subsequent construction and operation of the Project would result in significant physical impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including future occupants of the Project, nearby residents, building occupants, and workers, and the City's residents at large. These topics include: aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, population/housing, recreation, transportation/traffic, and utilities/services. In no instance did the MND/IS identify any significant impacts associated with Amendment or the Project that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The mitigation measures presented in the MND/IS will be applied to the Project as conditions of approval.

Based on the facts discussed above, the Parcel to which the Amendment would apply is considered to be physically suitable to support the Project.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends the Amendment as set forth in Exhibit A, attached hereto and incorporated herein by reference, to change the land use designation assigned to the Parcel, APNs 153-220-16 & -19, from Business and Professional Office (BPO) to Light Industrial Office (LIO), subject to the following conditions of approval.

#### **Section 4. Indemnity and Time Limitations**

##### **1. Indemnity and Time Limitations**

- a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the City Council's actions at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.
- b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action

and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the developer.
- d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

\* \* \* \* \*

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 18th day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\* \* \* \* \*

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 18th day of December, 2017.

Chairman

Attachments

Exhibit A – General Plan Land Use Map Amendment, 1461 South Novato Blvd., APN 151-022-09

Exhibit B- Novato General Plan Consistency & Advancement Findings

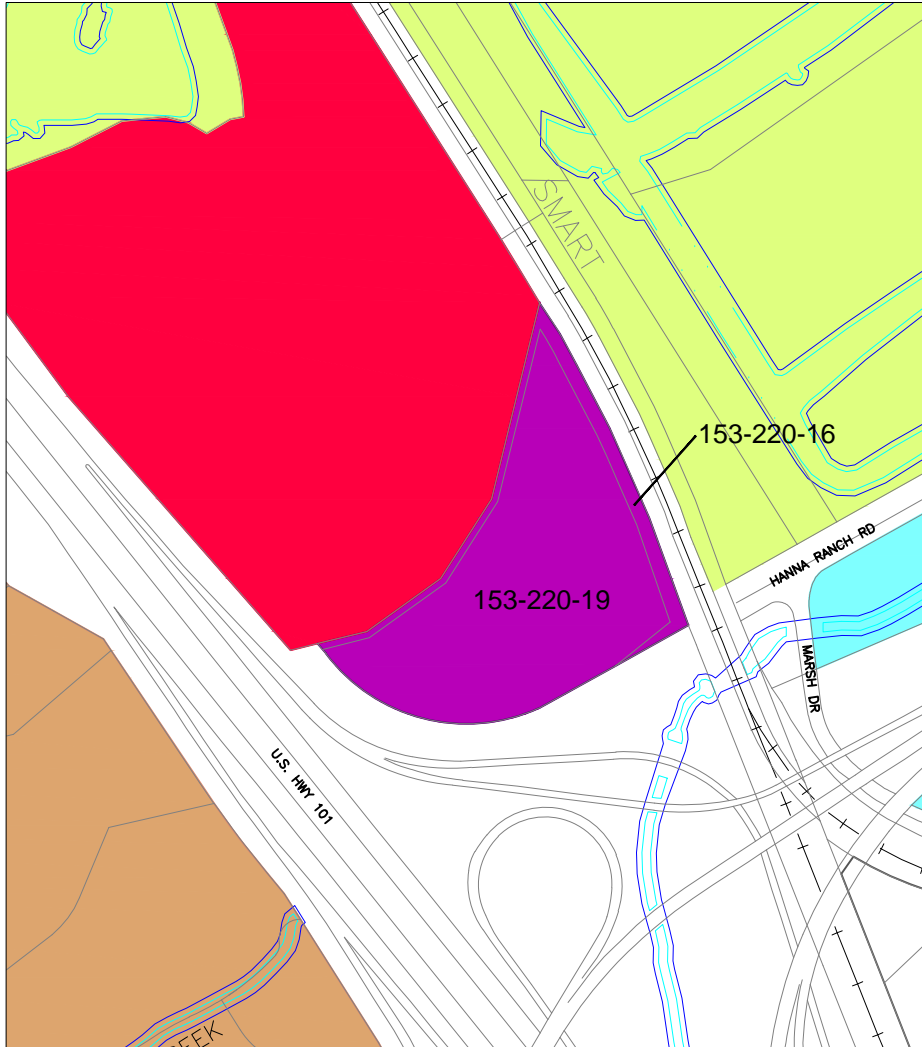
Reference: P2016-010

DRAFT

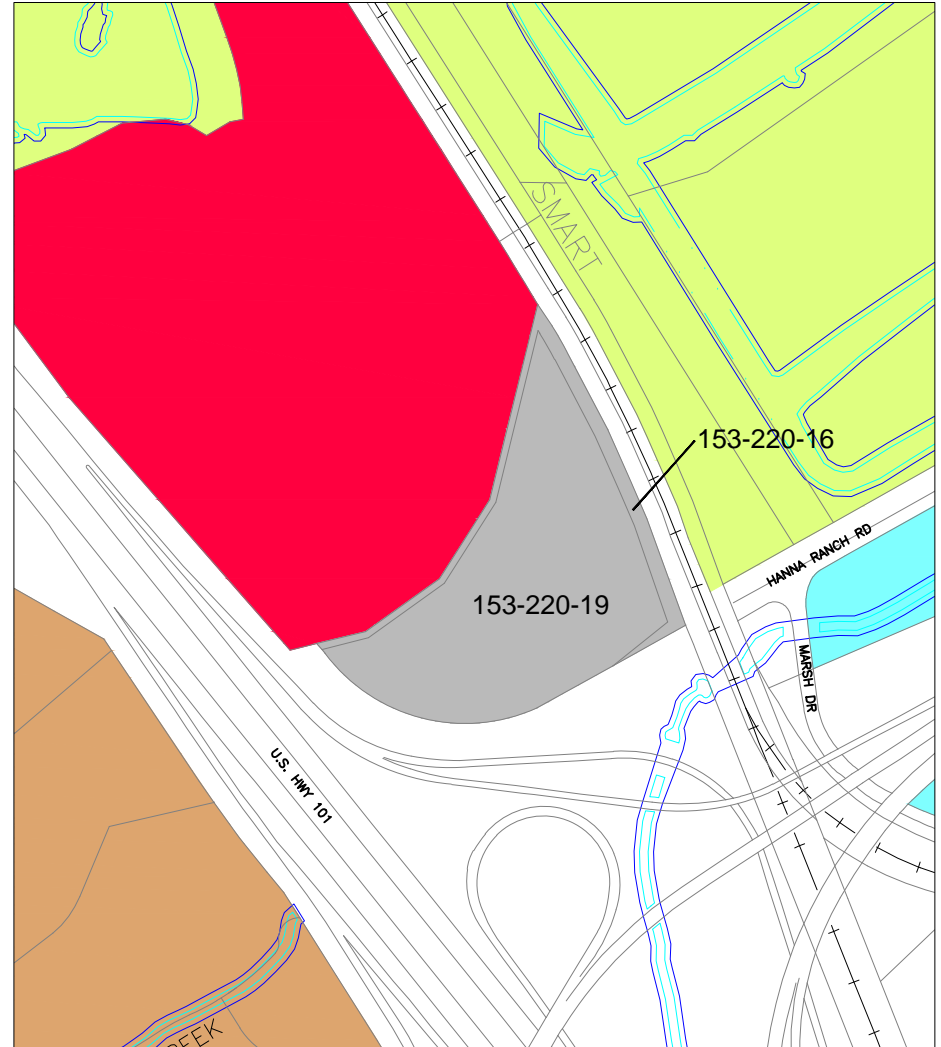
# McPhail's Commercial Office Development

## General Plan Land Use Map Amendment - Exhibit A

Existing



Proposed



### Legend

- Community Facilities (CF)
- Business and Professional Office (BPO)
- General Commercial (CG)
- Light Industrial/Office (LIO)
- Open Space (OS)
- Medium Density Multiple Family Residential (R10)

## EXHIBIT B

### MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT

#### NOVATO GENERAL PLAN CONSISTENCY & ADVANCEMENT FINDINGS

##### 1996 NOVATO GENERAL PLAN

###### *LAND USE CHAPTER*

LU Policy 1 Implementation of Land Use Map. Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use definitions, densities and intensities indicated in LU Table 2. Ensure consistency between the General Plan, the Zoning Ordinance, and other land use regulations.

LU Policy 2 Development Consistent with General Plan. Allow development at any density within the range shown by the Land Use Designations Map provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities (top of stated density range applied to total gross acreage) may in some cases be achieved, but there is no guarantee of achieving the maximum density.

Facts in Support: The Project includes a general plan amendment to change the land use designation applicable to the Project Parcel from Business and Professional Office (BPO) to Light Industrial Office (LIO). This action would uniformly apply the LIO land use designation to a 4.9 acre area as depicted in Exhibit A. The Project also includes a zoning amendment in the form of a master plan amendment that would assign new land use categories to the Project Site as follows:

McPhail's Commercial Office Development principally permitted uses and those uses requiring a use permit:

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required
- Restaurant with Alcohol Sales - Use Permit required

- Auto Sales – Use Permit required

With the exception of Fleet Vehicle Parking, all of the land use contained in the master plan amendment and as listed above match uses contained in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan. Regarding Fleet Vehicle Parking as defined in the master plan amendment, it too is found to be a suitable use in the LIO land use designation of the Novato General Plan inasmuch as it is a use recognized as being comparable to Vehicle Storage, which may be allowed in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan.

The maximum amount or massing of development, referred to locally as Floor Area Ratio (FAR), allowed under both the BPO and LIO land use districts of the Novato General Plan is 0.4. So no change in the FAR of 0.4 currently allowed for the Project Site would result by amending the General Plan Land Use designation from BPO to LIO. Additionally, no change in the FAR for the approved Project is proposed with the master plan amendment. The master plan allows for a 62,000 square foot office complex, which is equivalent to an FAR of 0.29 for the Project Site and well under the maximum FAR of 0.4 allowed in both the BPO and LIO land use districts of the Novato General Plan.

Based on the facts above, the Project is hereby found to be consistent with and advance LU Policies 1 and 2.

LU Policy 7 Growth Management. Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

Facts in Support: The approved Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to insure the Project provides adequate infrastructure. These conditions of approval were adopted for the Project and are to be implemented through the construction design and physical construction phases of the Project. These agencies did not identify any service constraints to serve the Project on an individual or cumulative basis. Additionally, the proposed new uses allowed in the master plan have been considered relative to the capacity of infrastructure and services for the Project and no significant demand increase was identified e.g. the nature of the proposed uses would, in general, use more building space for storage and/or processing, which results in fewer vehicle trips compared to the range of office uses allowed in the BPO zoning district thereby reducing demand on the adjacent circulation system.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services including police and fire protection and public utilities to serve the approved Project and the

associated proposed land use amendments. The IS/MND confirmed all public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with LU Policy 7.

### ***TRANSPORTATION CHAPTER***

TR Policy 4 Level of Service Standards. Establish traffic Level of Service (LOS) standards for use in (1) evaluating the impacts of proposed development projects so the project can be redesigned or effective mitigation measures can be implemented, (2) making improvements to the roadway system, and (3) determining appropriate traffic impact fees.

Facts in Support: The CEQA IS/MND prepared for the proposed land use amendments analyzed a traffic study that was prepared for the 2008 approved project that concluded the additional traffic generated by the project would have no significant impact to the surrounding network area. No mitigations were required for the original project. Additionally, the CEQA IS/MND prepared for the proposed land use amendments points out that the nature of the changed uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan would, in general, use space to store and/or process material. These uses would create fewer trips compared to the dense use of office buildings with office employees and visitors allowed under the BPO zoning district. Thus the proposed land use and zoning change would have a less-than-significant impact on the performance of the circulation system or conflict with an applicable congestion management program.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with TR Policy 4.

### ***ENVIRONMENT***

EN Policy 7 Water Quality: Encourage protection of water resources from pollution and sedimentation, and preserve their environmental and recreation values.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section IX, Hydrology and Water Quality, of the IS/MND, the Project would be required to comply with the City of Novato's stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

Additionally, pursuant to mitigation measure H-1, the Novato Public Works Department is requiring that the Project's site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain

systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

Based on the facts in support noted above, and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 7.

EN Policy 18 Species Diversity and Habitat. Protect biological resources that are necessary to maintain a diversity of plant and animal species.

Facts in Support (EN Policy 18): As analyzed in Section IV, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1 the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffers areas and consultation with the California Department of Fish and Wildlife.

Based on the findings of the CEQA IS/MND and the noted mitigation measure, incorporated herein by reference, the Project is considered to be consistent with and advance EN Policy 18.

EN Policy 29 Energy Conservation Measures in Buildings. Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

Facts in Support: The Project is required to comply with the uniform energy efficiency requirements of the California Building Code and Title 24 of the California Code of Regulations. In addition, the Project is required to comply with Novato's Green Building Ordinance. These regulatory documents require various energy efficiency features, such as minimum R-value insulation, energy efficient windows, and low-energy use lighting systems. The Project's construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of a building permit.

Based on the noted facts above, the Project is hereby found to be consistent with and advance EN Policy 29.

EN Policy 34 Local Efforts. Encourage local efforts to improve air quality.



Facts in Support: As described in Section III, Air Quality, of the CEQA IS/MND, the Project does not exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold for operational emissions. However, since the Project involves new construction and the operation of construction equipment, the potential construction related air pollutant emissions resulting from the Project were modeled and compared against the quantified thresholds of significance developed by the BAAQMD.

The BAAQMD construction thresholds address air pollutant emissions resulting from the operation of gasoline and diesel powered construction equipment, paving, general construction, the application of architectural coatings (paint), and the release of dust due to demolition and ground disturbing activities. The thresholds are typically measured by average daily emissions rather than maximum daily emissions. The thresholds represent both a project specific and cumulative impact threshold. That is, if a project exceeds a given threshold at the project level it is also considered to result in a cumulative impact. Conversely, a project that remains within a given threshold is not considered to result in cumulative impacts.

According to the IS/MND, the Project does not have the potential to exceed BAAQMD's thresholds for Reactive Organic Gas (ROG) and oxides of nitrogen (NOx) based on a maximum daily emissions level. On an average daily emissions threshold basis, the Project remains well under BAAQMD's threshold for ROG and NOx. While the project remains well under BAAQMD's threshold for ROG and NOx, Mitigation Measure AIR-1 is recommended to further reduce maximum daily ROG and NOx emissions to a less-than-significant level. Additionally, Mitigation Measure AIR-1 is intended to address the prevention of fugitive dust.

Mitigation Measure AIR-1 requires a number of actions to minimize the release of gasoline and diesel constituents and fugitive dust during construction of the Project. The measures below are based on BAAQMD's Basic Construction Emission Control Measures:

1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:
  - a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.

4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

Based on the findings of the CEQA IS/MND and the implementation of Mitigation Measure AIR-1, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 34

EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 35.

EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 37.

EN Policy 39 On-Site Recycling Areas. Require on-site areas for recycling in commercial/retail, office and multi-family residential developments as required by State law.

Facts in Support: The Project incorporates three trash and recycling storage areas proximal to all three buildings. Therefore, the Project is hereby found to be consistent with EN Policy 39.

***SAFETY & NOISE***

SF Policy 1 Seismic Hazards. Reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards.

Facts in Support: Seismic hazards and soil stability are addressed in Section VI, Geology and Soils, of the CEQA IS/MND prepared for the Project. The geotechnical analysis contained in the IS/MND determined that the Project would likely be subject to strong earthquake shaking during its lifespan. However, development of the site would not present any geologic or seismic risks that are unique or unusual for the region. Application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., the California Building Code [CBC], City ordinances and conditions of approval) would be adequate to address seismic hazards.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 1.

SF Policy 37 Noise and Land Use Compatibility Standards. Encourage the maintenance of the noise and land use compatibility standards indicated in SF Table 3. The normally acceptable standards for outdoor noise are summarized below [noise measurements in  $L_{dn}$ ]:

**SF TABLE 3**

Residential Development	up to 60 dB
Transient Lodging: Motel and Hotel	up to 60 dB
School, Library, Church, Hospital and Nursing Home	up to 60 dB
Auditorium, Concert Hall, Amphitheater	up to 70 dB
Sports Arena, Outdoor Spectator Sports	up to 70 dB
Playgrounds, Neighborhood Parks, Open Space	up to 65 dB
Golf Course, Cemetery	up to 70 dB
Office Building, Business, Commercial & Professional	up to 70 dB
Industrial, Manufacturing, Utilities	up to 70 dB

Facts in Support: As described in Section XII, Noise, of the CEQA IS/MND, operational noise produced by the building facilities such as heating and air conditioning units (or other elements such as emergency generators) would not be significantly different under any of the proposed changes in uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. All such facilities would be subject

to compliance with the City of Novato noise ordinance requirements and thus noise impacts would remain less than significant.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 37.

### ***ECONOMIC DEVELOPMENT & FISCAL VITALITY***

EC Policy 2 Commercial Lands. The City should encourage the development of commercial lands primarily for economic activities that contribute to local employment and income.

Facts in Support: In addition to offices, current business growth in Novato includes small scale manufacturing, wholesaling and distribution operations, which are not allowed in the current Master Plan/Precise Development. The select list of uses proposed for the Master Plan amendment, which includes small scale manufacturing, wholesaling and distribution are intended to better serve and attract a wider range of companies that in turn are expected to increase local employment and income.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 2.

### ***PUBLIC FACILITIES & SERVICES***

PF Policy 5 Potable Water. Ensure adequate water supply for new and existing development.

PF Policy 6 Water Conservation. Develop and implement water conservation programs for Novato.

Facts in Support: The approved Project was referred to the North Marin Water District for review and comment. The Water District did not identify any potential problems meeting the water demands of the Project despite the recent, multi-year drought in California. The Water District requested the Project comply with the District's water conservation ordinance. The District's water conservation ordinance addresses plumbing fixtures, plant selection, and irrigation features. The proposed land use change to LIO and the uses proposed in the master plan amendment are not expected to cause an increase in water demand associated with the approved Project.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 5 and 6.

### ***COMMUNITY IDENTITY***

CI Policy 1 Compatibility of Development with Surroundings. Ensure that new development is sensitive to the surrounding architecture, topography, landscaping, and to the character, scale, and ambiance of the surrounding neighborhood. Recognize that neighborhoods include community facilities needed by Novato residents as well as homes, and integrate facilities into neighborhoods.

Facts in Support: The Project received a formal design approval from the City's Design Review Commission on April 6, 2016, wherein the Commission found, in part, that the Project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 1.

CI Policy 9 Undergrounding Utilities. Continue to require undergrounding of utilities.

Facts in Support: All utilities serving the Project will be placed underground.

Based on the fact set forth above, the Project is hereby found to be consistent with CI Policy 9.

CI Policy 12 Parking Standards. Reduce the visibility of parking facilities and the amount of land necessary for them to the maximum extent feasible.

Facts in Support: Parking would be primarily provided in three parking areas: 1) across the frontage of the Project adjacent to Hana Ranch Road, between the three buildings and along the Project site's easterly common boundary with the SMART rail line. These parking areas are relatively flat and include an integrated landscape plan including numerous tree and shrub plantings that are intended to both help obscure views of the parking facility from offsite locations and enhance the visual quality of the project via tree and plant colors seasonally.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 12.

CI Policy 14 Open Areas and Landscaping. Require provision of adequate landscaped, open areas in project design.

Facts in Support: The Project features a variety outdoor spaces for business occupants and visitors. These areas are considered to be adequate and attractive inasmuch as they are well landscaped and in most instances incorporate pedestrian pathways for circulation and enjoyment by the Project's occupants and visitors.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 14.

CI Policy 15 Pedestrian Paths. Provide for maximum feasible pedestrian circulation.

Facts in Support: The Project includes integrated pedestrian pathways throughout the site serving

all three buildings. Additionally, the Project includes a new sidewalk along its Hanna Ranch Road frontage that can be accessed from an existing dedicated bike and pedestrian pathway that leads south to Hamilton Drive. These pedestrian paths provide adequate pedestrian circulation and enhance connectivity to existing pedestrian facilities.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 15.

CI Policy 30 Archaeological Resources Protection: Continue to protect archaeological resources.

Facts in Support: No historic or archaeological resources were found during past operations on the site or are known to exist, based the results of intensive pedestrian survey, North West Information Center records search, and Native American Heritage Commission records search. The General Plan land use designation change from BPO to LIO and amendment to the Master Plan and Precise Development Plan would not affect historical or archaeological resources as the project site remains at the same location. However implementation of Mitigation Measure CUL-1 would ensure that impacts to archaeological resources would remain less than significant. Mitigation Measure CUL-1 requires that in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

Based on the archeological analyses performed for the Project and application of the noted mitigation measure, the Project is not anticipated to have an adverse effect on archeological resources. Accordingly, the Project is hereby found to be consistent with CI Policy 30.

PLANNING COMMISSION RESOLUTION

RESOLUTION NO.

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING APPROVAL OF AN ORDINANCE TO AMEND THE MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN, ADOPTED BY CITY OF NOVATO ORDINANCE NO. 1537, TO RESCIND AND REPLACE ALL TEXT ADDRESSING BUSINESS AND PROFESSIONAL OFFICE USE, AND REPLACING THE SAME WITH A LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES FOR 5400 HANNA RANCH ROAD, APNs 153-220-16 AND -19

WHEREAS, the City Council of the City of Novato ("City") adopted Ordinance No. 1537 on November 11, 2008, approving the McPhail's Commercial Office Development Master Plan (hereafter "Master Plan") for 5400 Hanna Ranch Road, APNs 153-220-16 and -19 (hereafter "Project Site"); and

WHEREAS, the approved Master Plan text describes the allowed development size in square feet and the type of commercial uses allowed, which are consistent with uses as allowed pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code; and

WHEREAS, the City received an application (116038) proposing to amend the Novato General Plan Land Use Map designation, the Master Plan uses text, and corresponding Precise Development Plan text (hereafter "Project") for the Project Site; and

WHEREAS, the Master Plan is proposed to be amended to rescind and replace all text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code with uses as described in text pursuant to Exhibit A attached hereto and incorporated herein by reference; and

WHEREAS, an Initial Study/Mitigated Negative Declaration ("IS/MND"), prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City of Novato Environmental Review Guidelines, analyzed the Project to determine if these activities would result in significant physical impacts to the environment; and

WHEREAS, the IS/MND did not identify any significant environmental impacts arising from the Project that could not be mitigated to a less than significant level; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council adopt a Mitigated Negative Declaration for the Project, and did consider the IS/MND prior to making a recommendation on the Project; and

WHEREAS by separate resolution adopted prior hereto the Planning Commission did recommend the City Council adopt a change to the Novato General Plan Land Use Map land use designation assigned to the Project Site, from Business and Professional Office (BPO) to Light Industrial Office (LIO); and

WHEREAS, the Planning Commission held a public hearing on December 18, 2017, and considered all oral and written comments on the Project, including the proposed amendments to the Master Plan at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing regarding the Project, including the proposed amendments to the Master Plan at issue herein, were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction and operation, all responsible and trustee agencies, the Marin County Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on November 28, 2017; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby finds and resolves as follows:

**Section 1. Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.



## **Section 2. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the currently approved McPhail's Commercial Office Development mitigated negative declaration, Resolution No. 86-08, the currently approved Master Plan, Ordinance No. 1537, the currently approved Precise Development Plan, Resolution No. 87-08, the approved Tentative Map, Resolution No. 87A-08, and approved Design Review, Resolution No. 88-08, (2) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (3) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, and the Project's associated development entitlement requests (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, and the Project's associated development entitlement requests (7) all documentary and oral evidence received at, meetings, and hearings or submitted to the City during the comment period relating to the IS/MND, the Project, and the Project's associated development entitlement requests (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

## **Section 3. Findings**

The Planning Commission hereby makes the following findings as required by Section 19.42.060.E.3 of the Novato Municipal Code with the respect to the proposed Master Plan amendments as described in Exhibit A attached hereto:

- a. The proposed Master Plan development is in conformance with the applicable goals and policies of the General Plan and any applicable specific plan;

Exhibit B, attached hereto and incorporated herein by reference, cites policies of the Novato General Plan that are applicable to the Project and provides supporting facts regarding the Project's consistency therewith. Based on the facts described in Exhibit B, the Project is hereby found to be consistent with the 1996 Novato General Plan. The Project Site is not subject to a specific plan.

- b. The proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services and public utilities to serve future development at the Project Site based on the proposed land uses, development intensity, and previously approved design of the Project. This review included considering comments from the Novato Fire Protection District, Novato Sanitary District, and North Marin Water District regarding their service capabilities and infrastructure. The IS/MND

also analyzed the demand for other government service facilities. The IS/MND confirmed the noted service providers have and/or have planned provisions for sufficient capacity, facilities, infrastructure, equipment, and staff to serve the Project.

The noted agencies are requiring conditions of approval for the Project's approved design to ensure it will incorporate infrastructure improvements that will meet each agency's respective standards. The conditions of approval will be incorporated and implemented through design of the improvements drawings for the Final Map and subsequent building permits to construct the Project. Each agency will review the Project's construction detail drawings submitted through the local building permit process to confirm all utility connections and infrastructure upgrades required for the Project are designed and installed appropriately. All other utilities, including electricity, gas, cable, internet, and telephone service are located in the Hanna Ranch Road right-of-way and are available to the Project.

Based on the observations above and the supporting facts presented in Exhibit B, attached hereto and incorporated herein by reference, the Project can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.

- c. The proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and
- d. The location, access, density/building intensity, size and type of uses proposed in the Master Plan are compatible with the existing and future land uses in the surrounding neighborhood.

#### *Design and Use Compatibility*

As previously determined by City Council through its approval of the project design on November 11, 2008, following the recommendations of the Design Review Commission and Planning Commission, the project provides an orderly site design inclusive of integrated vehicle and pedestrian circulation, parking, outdoor patio space, landscaping, and building intensity, size and design that is well suited for the Project Site and demonstrates sensitivity to the surrounding setting and planned uses to the north, within the pending site development known as Hanna Ranch.

The Project land uses are considered to be well suited for the approved project as situated and designed. Added controls i.e. indoor only activities for Equipment Rental, and the requirement to obtain a use permit for those uses (specifically Fleet Vehicle Parking, Minor Auto Repair and Maintenance, Restaurant and Auto Sales) that are identified to potentially create other impacts e.g. parking, visual, noise etc. if left unregulated will allow the City to impose limitations e.g. design and/or operating characteristics to ensure these uses, if proposed, are compatible with other site uses and/or pending uses on surrounding properties, including planned uses to the north, within the planned site development known at Hanna Ranch.

Based on the observations above, the Project's development and proposed uses are hereby found to be reasonably suited to the specific characteristics of the Project Site and the surrounding neighborhood and would be compatible with future land uses that may locate in the project vicinity.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends the City Council approve amending the Master Plan to rescind and replace all text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code with uses as set forth in text pursuant to Exhibit A attached hereto and incorporated herein by reference, based on the findings set forth herein and subject to the conditions of approval set forth below.

**Section 4. Conditions of Approval and Indemnity and Time Limitations**

1. Mitigation Measure AIR-1: Prior to issuance of demolition, grading, and/or building permits the applicant shall submit an inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:
  - a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. Mitigation Measure AIR-1: All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
3. Mitigation Measure AIR-1: All haul trucks transporting soil, sand, or other loose material off site shall be covered. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
4. Mitigation Measure AIR-1: All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
5. Mitigation Measure AIR-1: All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
6. Mitigation Measure AIR-1: All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. This requirement shall be included as notes on construction plans and subject to verification through field inspections.

7. Mitigation Measure AIR-1: Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
8. Mitigation Measure AIR-1: All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
9. Mitigation Measure AIR-1: The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.
10. Mitigation Measure BIO-1: If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.
11. Mitigation Measure CUL-1: In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

12. Mitigation Measure CUL-2: If a suspected paleontological fossil is encountered, project construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, the find shall be recorded and salvaged by a qualified paleontologist.
13. Mitigation Measure CUL-3: If human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.
14. Mitigation Measure H-1: Site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.
15. The Project is subject to existing mitigation measures set forth in the previously adopted mitigated negative declaration, Resolution No. 86-08, and all conditions of approval set forth in the approved Precise Development Plan, Resolution No. 87-08 and Tentative Map, Resolution No. 87A-08.
16. Indemnity and Time Limitations
  - a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's recommendation to the City Council at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.
  - b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the developer.
- d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 18<sup>th</sup> day of December, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\* \* \* \* \*

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the 18th day of December, 2017.

Chairman

Attachments

- Exhibit A – McPhail’s Commercial Office Development Master Plan Text Amendments
- Exhibit B - McPhail’s Commercial Office Development - Novato General Plan Consistency & Advancement Findings

Ref: 10702M

DRAFT

## EXHIBIT A

### MCHAIL'S COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN AMENDMENTS

All text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District of the McPhail's Commercial Office Development Master Plan (City of Novato Ordinance No. 1537) is hereby replaced with the following text addressing allowed uses and uses requiring a use permit:

#### Allowed uses and uses requiring a use permit

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required
- Restaurant with Alcohol Sales - Use Permit required, including compliance with the requirements of Novato Municipal Code Section 19.34.050, as may be amended
- Auto Sales – Use Permit required

Note: With the exception of Fleet Vehicle Parking, all uses listed above are based on the definitions for each as provided in [Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Zoning Ordinance](#). Regarding Fleet Vehicle Parking, the following definition is applied:

*Fleet Vehicle Parking: Fleet Vehicle Parking can include groups of nine or more motor vehicles owned or leased by a business, government agency or other organization rather than by an individual or family. Typical examples are vehicles operated by car rental companies, taxi cab companies, public utilities, bus companies, parcel delivery service, equipment (e.g., plumbing, electrical, landscaping, solar) installation and repair service, and police departments. Additionally, fleet vehicle does not include tractor trailers, heavy equipment or vehicles designed for executing construction tasks.*



## EXHIBIT B

### MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT

#### NOVATO GENERAL PLAN CONSISTENCY & ADVANCEMENT FINDINGS

##### 1996 NOVATO GENERAL PLAN

###### *LAND USE CHAPTER*

LU Policy 1 Implementation of Land Use Map. Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use definitions, densities and intensities indicated in LU Table 2. Ensure consistency between the General Plan, the Zoning Ordinance, and other land use regulations.

LU Policy 2 Development Consistent with General Plan. Allow development at any density within the range shown by the Land Use Designations Map provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities (top of stated density range applied to total gross acreage) may in some cases be achieved, but there is no guarantee of achieving the maximum density.

Facts in Support: The Project includes a general plan amendment to change the land use designation applicable to the Project Parcel from Business and Professional Office (BPO) to Light Industrial Office (LIO). This action would uniformly apply the LIO land use designation to a 4.9 acre area as depicted in Exhibit A. The Project also includes a zoning amendment in the form of a master plan amendment that would assign new land use categories to the Project Site as follows:

McPhail's Commercial Office Development principally permitted uses and those uses requiring a use permit:

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required

- Restaurant with Alcohol Sales - Use Permit required
- Auto Sales – Use Permit required

With the exception of Fleet Vehicle Parking, all of the land use contained in the master plan amendment and as listed above match uses contained in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan. Regarding Fleet Vehicle Parking as defined in the master plan amendment, it too is found to be a suitable use in the LIO land use designation of the Novato General Plan inasmuch as it is a use recognized as being comparable to Vehicle Storage, which may be allowed in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan.

The maximum amount or massing of development, referred to locally as Floor Area Ratio (FAR), allowed under both the BPO and LIO land use districts of the Novato General Plan is 0.4. So no change in the FAR of 0.4 currently allowed for the Project Site would result by amending the General Plan Land Use designation from BPO to LIO. Additionally, no change in the FAR for the approved Project is proposed with the master plan amendment. The master plan allows for a 62,000 square foot office complex, which is equivalent to an FAR of 0.29 for the Project Site and well under the maximum FAR of 0.4 allowed in both the BPO and LIO land use districts of the Novato General Plan.

Based on the facts above, the Project is hereby found to be consistent with and advance LU Policies 1 and 2.

LU Policy 7 Growth Management. Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

Facts in Support: The approved Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to insure the Project provides adequate infrastructure. These conditions of approval were adopted for the Project and are to be implemented through the construction design and physical construction phases of the Project. These agencies did not identify any service constraints to serve the Project on an individual or cumulative basis. Additionally, the proposed new uses allowed in the master plan have been considered relative to the capacity of infrastructure and services for the Project and no significant demand increase was identified e.g. the nature of the proposed uses would, in general, use more building space for

storage and/or processing, which results in fewer vehicle trips compared to the range of office uses allowed in the BPO zoning district thereby reducing demand on the adjacent circulation system.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services including police and fire protection and public utilities to serve the approved Project and the associated proposed land use amendments. The IS/MND confirmed all public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with LU Policy 7.

### ***TRANSPORTATION CHAPTER***

TR Policy 4 Level of Service Standards. Establish traffic Level of Service (LOS) standards for use in (1) evaluating the impacts of proposed development projects so the project can be redesigned or effective mitigation measures can be implemented, (2) making improvements to the roadway system, and (3) determining appropriate traffic impact fees.

Facts in Support: The CEQA IS/MND prepared for the proposed land use amendments analyzed a traffic study that was prepared for the 2008 approved project that concluded the additional traffic generated by the project would have no significant impact to the surrounding network area. No mitigations were required for the original project. Additionally, the CEQA IS/MND prepared for the proposed land use amendments points out that the nature of the changed uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan would, in general, use space to store and/or process material. These uses would create fewer trips compared to the dense use of office buildings with office employees and visitors allowed under the BPO zoning district. Thus the proposed land use and zoning change would have a less-than-significant impact on the performance of the circulation system or conflict with an applicable congestion management program.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with TR Policy 4.

### ***ENVIRONMENT***

EN Policy 7 Water Quality: Encourage protection of water resources from pollution and sedimentation, and preserve their environmental and recreation values.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section IX, Hydrology and Water Quality, of the IS/MND, the Project would be required to comply with the

City of Novato's stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

Additionally, pursuant to mitigation measure H-1, the Novato Public Works Department is requiring that the Project's site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

Based on the facts in support noted above, and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 7.

EN Policy 18 Species Diversity and Habitat. Protect biological resources that are necessary to maintain a diversity of plant and animal species.

Facts in Support (EN Policy 18): As analyzed in Section IV, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1 the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffers areas and consultation with the California Department of Fish and Wildlife.

Based on the findings of the CEQA IS/MND and the noted mitigation measure, incorporated herein by reference, the Project is considered to be consistent with and advance EN Policy 18.

EN Policy 29 Energy Conservation Measures in Buildings. Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

Facts in Support: The Project is required to comply with the uniform energy efficiency requirements of the California Building Code and Title 24 of the California Code of Regulations. In addition, the Project is required to comply with Novato's Green Building Ordinance. These regulatory documents require various energy efficiency features, such as minimum R-value

insulation, energy efficient windows, and low-energy use lighting systems. The Project's construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of a building permit.

Based on the noted facts above, the Project is hereby found to be consistent with and advance EN Policy 29.

EN Policy 34 Local Efforts. Encourage local efforts to improve air quality.

Facts in Support: As described in Section III, Air Quality, of the CEQA IS/MND, the Project does not exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold for operational emissions. However, since the Project involves new construction and the operation of construction equipment, the potential construction related air pollutant emissions resulting from the Project were modeled and compared against the quantified thresholds of significance developed by the BAAQMD.

The BAAQMD construction thresholds address air pollutant emissions resulting from the operation of gasoline and diesel powered construction equipment, paving, general construction, the application of architectural coatings (paint), and the release of dust due to demolition and ground disturbing activities. The thresholds are typically measured by average daily emissions rather than maximum daily emissions. The thresholds represent both a project specific and cumulative impact threshold. That is, if a project exceeds a given threshold at the project level it is also considered to result in a cumulative impact. Conversely, a project that remains within a given threshold is not considered to result in cumulative impacts.

According to the IS/MND, the Project does not have the potential to exceed BAAQMD's thresholds for Reactive Organic Gas (ROG) and oxides of nitrogen (NO<sub>x</sub>) based on a maximum daily emissions level. On an average daily emissions threshold basis, the Project remains well under BAAQMD's threshold for ROG and NO<sub>x</sub>. While the project remains well under BAAQMD's threshold for ROG and NO<sub>x</sub>, Mitigation Measure AIR-1 is recommended to further reduce maximum daily ROG and NO<sub>x</sub> emissions to a less-than-significant level. Additionally, Mitigation Measure AIR-1 is intended to address the prevention of fugitive dust.

Mitigation Measure AIR-1 requires a number of actions to minimize the release of gasoline and diesel constituents and fugitive dust during construction of the Project. The measures below are based on BAAQMD's Basic Construction Emission Control Measures:

1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:

- a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.
  4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
  6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
  8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
  9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

Based on the findings of the CEQA IS/MND and the implementation of Mitigation Measure AIR-1, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 34

EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 35.

EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 37.

EN Policy 39 On-Site Recycling Areas. Require on-site areas for recycling in commercial/retail, office and multi-family residential developments as required by State law.

Facts in Support: The Project incorporates three trash and recycling storage areas proximal to all three buildings. Therefore, the Project is hereby found to be consistent with EN Policy 39.

***SAFETY & NOISE***

SF Policy 1 Seismic Hazards. Reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards.

Facts in Support: Seismic hazards and soil stability are addressed in Section VI, Geology and Soils, of the CEQA IS/MND prepared for the Project. The geotechnical analysis contained in the IS/MND determined that the Project would likely be subject to strong earthquake shaking during its lifespan. However, development of the site would not present any geologic or seismic risks that are unique or unusual for the region. Application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., the California Building Code [CBC], City ordinances and conditions of approval) would be adequate to address seismic hazards.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 1.

SF Policy 37 Noise and Land Use Compatibility Standards. Encourage the maintenance of the noise and land use compatibility standards indicated in SF Table 3. The normally acceptable standards for outdoor noise are summarized below [noise measurements in L<sub>dn</sub>]:

**SF TABLE 3**

Residential Development	up to 60 dB
Transient Lodging: Motel and Hotel	up to 60 dB
School, Library, Church, Hospital and Nursing Home	up to 60 dB
Auditorium, Concert Hall, Amphitheater	up to 70 dB
Sports Arena, Outdoor Spectator Sports	up to 70 dB
Playgrounds, Neighborhood Parks, Open Space	up to 65 dB

Golf Course, Cemetery	up to 70 dB
Office Building, Business, Commercial & Professional	up to 70 dB
Industrial, Manufacturing, Utilities	up to 70 dB

Facts in Support: As described in Section XII, Noise, of the CEQA IS/MND, operational noise produced by the building facilities such as heating and air conditioning units (or other elements such as emergency generators) would not be significantly different under any of the proposed changes in uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. All such facilities would be subject to compliance with the City of Novato noise ordinance requirements and thus noise impacts would remain less than significant.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 37.

***ECONOMIC DEVELOPMENT & FISCAL VITALITY***

EC Policy 2 Commercial Lands. The City should encourage the development of commercial lands primarily for economic activities that contribute to local employment and income.

Facts in Support: In addition to offices, current business growth in Novato includes small scale manufacturing, wholesaling and distribution operations, which are not allowed in the current Master Plan/Precise Development. The select list of uses proposed for the Master Plan amendment, which includes small scale manufacturing, wholesaling and distribution are intended to better serve and attract a wider range of companies that in turn are expected to increase local employment and income.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 2.

***PUBLIC FACILITIES & SERVICES***

PF Policy 5 Potable Water. Ensure adequate water supply for new and existing development.

PF Policy 6 Water Conservation. Develop and implement water conservation programs for Novato.

Facts in Support: The approved Project was referred to the North Marin Water District for review and comment. The Water District did not identify any potential problems meeting the water demands of the Project despite the recent, multi-year drought in California. The Water District requested the Project comply with the District’s water conservation ordinance. The District’s water conservation ordinance addresses plumbing fixtures, plant selection, and irrigation features. The



proposed land use change to LIO and the uses proposed in the master plan amendment are not expected to cause an increase in water demand associated with the approved Project.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 5 and 6.

### ***COMMUNITY IDENTITY***

CI Policy 1 Compatibility of Development with Surroundings. Ensure that new development is sensitive to the surrounding architecture, topography, landscaping, and to the character, scale, and ambiance of the surrounding neighborhood. Recognize that neighborhoods include community facilities needed by Novato residents as well as homes, and integrate facilities into neighborhoods.

Facts in Support: The Project received a formal design approval from the City's Design Review Commission on April 6, 2016, wherein the Commission found, in part, that the Project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 1.

CI Policy 9 Undergrounding Utilities. Continue to require undergrounding of utilities.

Facts in Support: All utilities serving the Project will be placed underground.

Based on the fact set forth above, the Project is hereby found to be consistent with CI Policy 9.

CI Policy 12 Parking Standards. Reduce the visibility of parking facilities and the amount of land necessary for them to the maximum extent feasible.

Facts in Support: Parking would be primarily provided in three parking areas: 1) across the frontage of the Project adjacent to Hana Ranch Road, between the three buildings and along the Project site's easterly common boundary with the SMART rail line. These parking areas are relatively flat and include an integrated landscape plan including numerous tree and shrub plantings that are intended to both help obscure views of the parking facility from offsite locations and enhance the visual quality of the project via tree and plant colors seasonally.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 12.

CI Policy 14 Open Areas and Landscaping. Require provision of adequate landscaped, open areas in project design.

Facts in Support: The Project features a variety outdoor spaces for business occupants and visitors. These areas are considered to be adequate and attractive inasmuch as they are well landscaped and in most instances incorporate pedestrian pathways for circulation and enjoyment by the Project's occupants and visitors.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 14.

CI Policy 15 Pedestrian Paths. Provide for maximum feasible pedestrian circulation.

Facts in Support: The Project includes integrated pedestrian pathways throughout the site serving all three buildings. Additionally, the Project includes a new sidewalk along its Hanna Ranch Road frontage that can be accessed from an existing dedicated bike and pedestrian pathway that leads south to Hamilton Drive. These pedestrian paths provide adequate pedestrian circulation and enhance connectivity to existing pedestrian facilities.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 15.

CI Policy 30 Archaeological Resources Protection: Continue to protect archaeological resources.

Facts in Support: No historic or archaeological resources were found during past operations on the site or are known to exist, based the results of intensive pedestrian survey, North West Information Center records search, and Native American Heritage Commission records search. The General Plan land use designation change from BPO to LIO and amendment to the Master Plan and Precise Development Plan would not affect historical or archaeological resources as the project site remains at the same location. However implementation of Mitigation Measure CUL-1 would ensure that impacts to archaeological resources would remain less than significant. Mitigation Measure CUL-1 requires that in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

Based on the archeological analyses performed for the Project and application of the noted mitigation measure, the Project is not anticipated to have an adverse effect on archeological resources. Accordingly, the Project is hereby found to be consistent with CI Policy 30.

# Agenda Item 6 - Attachment 4

## PLANNING COMMISSION RESOLUTION

### RESOLUTION NO.

RESOLUTION OF THE NOVATO PLANNING COMMISSION  
RECOMMENDING THE NOVATO CITY COUNCIL APPROVE  
THE PRECISE DEVELOPMENT PLAN AMENDMENT FOR  
MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT  
PROJECT AT 5400 HANNA RANCH ROAD, APNs 153-220-16  
AND -19

WHEREAS, the City of Novato ("City") received applications for a general plan land use map amendment, master plan amendment, and precise development plan amendment to change the permitted uses and uses requiring a use permit within the McPhail's Commercial Office Development (hereafter "Project") located at 5400 Hanna Ranch Road, APNs 153-220- 16 and - 19 (collectively "Project Site"); and

WHEREAS, the precise development plan amendment is a request that the City amend the McPhail's Commercial Office Development Precise Development Plan to void references to Floor Area Ratio (FAR) and uses allowed and uses requiring a use permit pursuant to the BPO zoning district as specified in Table 2-7, Section 19.12.030 of the Zoning Ordinance; and

WHEREAS, the precise development plan amendment for the Project consist of only removing FAR and use provisions, which are adequately and appropriately contained in the McPhail's Commercial Office Development Master Plan as amended; and

WHEREAS, an Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City of Novato Environmental Review Guidelines, which analyzed the Project to determine if the Project actions would result in significant physical impacts to the environment; and

WHEREAS, the IS/MND did not identify any significant environmental impacts arising from the Project, including the precise development plan amendment, or the construction and operation of the Project itself that could not be mitigated to a less than significant level; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council adopt a Mitigated Negative Declaration for the Project, and did consider the IS/MND prior to making a recommendation on the Project; and

WHEREAS, the Planning Commission held a public hearing on December 18, 2017, and considered all oral and written comments on the Project, including the proposed amendments to the McPhail's Commercial Office Development Precise Development Plan at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing regarding the Project at issue herein were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the Marin County

Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on November 28, 2017; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby finds and resolves as follows:

**Section 1. Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

**Section 2. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the currently approved McPhail's Commercial Office Development mitigated negative declaration, Resolution No. 86-08, the currently approved Master Plan, Ordinance No. 1537, the currently approved Precise Development Plan, Resolution No. 87-08, the approved Tentative Map, Resolution No. 87A-08, and approved Design Review, Resolution No. 88-08, (2) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (3) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, and the Project's associated development entitlement requests, (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, and the Project's associated development entitlement requests, (7) all documentary and oral evidence received at meetings, and hearings or submitted to the City during the comment period relating to the IS/MND, the Project, and the Project's associated development entitlement requests, (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

The location and custodian of the records is the Novato Community Development Department, 922 Machin Avenue, Novato, California, 94945.

**Section 3. Findings**

**Precise Development Plan Amendment**

The Planning Commission hereby makes the following findings as required by Section 19.42.060.F.3 of the Novato Municipal Code with the respect to the proposed amendments to the McPhail's Commercial Office Development Precise Development Plan:

**Precise Development Plan Finding A. The proposed precise development plan is consistent with the general plan, any applicable specific plan, and the approved master plan as set forth in Exhibit A, attached hereto and incorporated herein by reference.**

Facts in Support: The Precise Development Plan amendments for McPhail's Commercial Office Development, consisting of text attached hereto as Exhibit A, have been reviewed for consistency with applicable policies of the Novato General Plan and the McPhail's Commercial Office Development Master Plan as amended. Based on this review, the Precise Development Plan amendments are found to be consistent with all applicable policies of the General Plan and Master Plan, as documented in Exhibit B attached hereto and incorporated herein by reference. Exhibit B lists applicable policies of the General Plan and those of the McPhail's Commercial Office Development Master Plan as amended and presents statements of fact demonstrating the Project's consistency therewith.

**Precise Development Plan Finding B: The proposed precise development plan would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than might otherwise occur from more traditional development applications;**

Facts in Support: The Project's design, as approved presents a comprehensive and high quality development, enhances community character, provides for harmonious development, and creates a desirable environment for occupants, neighbors, and guests based on the following facts:

- The Project presents a site design that is well organized and thoughtfully orients new development to key focal areas including internal landscape spaces and pedestrian pathways, the street edge along Hanna Ranch Road and more distant views from Highways 101 and 37, and the SMART rail line.
- On-site vehicle circulation is logically arranged and provides adequate access from Hanna Ranch Road for guests and patrons/employees of the three commercial buildings.
- On-site parking is conveniently accessible via internal drive aisles and is equitably distributed throughout the three buildings on the Project Site. On-site surface parking is screened from off-site views by the Project's proposed landscaping and, in more internal areas, by the approved buildings.
- The Project features a clearly defined pedestrian circulation system to and around all three buildings, on-site surface parking areas, and to Hanna Ranch Road which will connect to the bicycle and pedestrian path planned by SMART within their rail right-of-way.
- The Project provides a variety of outdoor use areas, including integrated pathways and outdoor seating for practical building access, passive recreation and socializing.
- The Project's three independent buildings are designed and finished with consistent and quality materials including concrete, glass and metal.

- The Project's landscape plan incorporates a variety of native and naturalized plant species, which require low water use. The landscape plan emphasizes tree plantings, both accent trees and larger street trees, including live oak and valley oak throughout the site and along the Project's street frontage. The landscape plan also incorporates bioretention features to naturally filter stormwater runoff.

Based on facts above, the Project as approved is expected to produce a comprehensive development of superior quality than might otherwise occur from more traditional development applications.

**Precise Development Plan Finding C: The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;**

Facts in Support: The approved Project design was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate service capacity and infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval, as necessary, to insure the Project provides adequate infrastructure and safety improvements, such as water backflow prevention devices, appropriate stormwater control measures, and fire suppression and rescue features. These conditions of approval are to be implemented through the construction design plans and construction phases of the Project. These agencies did not identify any service constraints or potential issues that would represent a threat to public health, safety, or general welfare, or injurious to the property or improvements surrounding the Project Site.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services and public utilities to serve future development at the Project Site based on the proposed land uses, development intensity, and previously approved design of the Project. This review included considering comments from the Novato Fire Protection District, Novato Sanitary District, and North Marin Water District regarding their service capabilities and infrastructure. The IS/MND also analyzed the demand for other government service facilities. The IS/MND confirmed the noted service providers have and/or have planned provisions for sufficient capacity, facilities, infrastructure, equipment, and staff to serve the Project.

The noted agencies are requiring conditions of approval for the Project's approved design to ensure it will incorporate infrastructure improvements that will meet each agency's respective standards. The conditions of approval will be incorporated and implemented through design of the improvements drawings for the Final Map and subsequent building permits to construct the Project. Each agency will review the Project's construction detail drawings submitted through the local building permit process to confirm all utility connections and infrastructure upgrades required for the Project are designed and installed appropriately. All other utilities, including

electricity, gas, cable, internet, and telephone service are located in the Hanna Ranch Road right-of-way and are available to the Project.

Based on facts above, the Project as approved is hereby found to be designed in a manner that would not: a) endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare; b) cause injury to property or improvements in the vicinity and zoning district in which the Project Site is located.

**Precise Development Plan Finding D: The proposed precise development plan standards are reasonably suited to the specific characteristics of the site, and are compatible with the existing and future land uses in the surrounding neighborhood; and**

**Precise Development Plan Finding E: The subject site is:**

- 1) Physically suitable for the type and density/intensity of development being proposed;**
- 2) Adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this title; and**
- 3) Served by streets and pedestrian facilities adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.**

Facts in Support of Findings D and E:

#### *Project Site and Land Use Compatibility*

The Project Site, at approximately 4.9 acres in size, is considered to be physically suitable for the type and intensity of commercial development approved for it. The development standards prescribed in the precise development plan e.g. height and setbacks standards, combined with the FAR limit prescribed in the master plan, serve to conform with the approved project design and regulate any future design modifications to ensure they are appropriately scaled and positioned on the site while respecting potential development in the surrounding area.

With the exception of the planned Hanna Ranch commercial development to the north, which is elevated above the project site, the Project Site is bound by Highway 101 and 37 to the west and south, and the SMART right of way to the east. This surrounding context results in the Project Site being fairly separated from other active land uses. The Project Site is well suited for the approved design as it does not host significant physical constraints e.g. already rough graded following historic use as a concrete processing/storage area, and has minimal west to east cross slope.

The Project Site is served by an existing street system with capacity to accommodate new vehicle trips. This position is evidenced by the CEQA IS/MND prepared for the Project and accompanying proposed land use amendments, which analyzed a traffic study that was prepared for the 2008 approved project. The CEQA IS/MND concluded that the additional traffic

generated by the project would have no significant impact to the surrounding network area and no mitigations were required for the original project. Additionally, the CEQA IS/MND prepared for the proposed land use amendments points out that the nature of the changed uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan would generate fewer trips compared to the use of office buildings with office employees and visitors allowed under the BPO zoning district. Thus the proposed land use and zoning change would have a less-than-significant impact on the performance of the vehicle circulation system and would not conflict with an applicable congestion management program. Additionally, the site as designed incorporates coordinated pedestrian pathways and outdoor patio seating with surrounding landscaping to serve tenants and visitors. The pedestrian pathways will also accommodate bike and pedestrian pathway connection to an existing southbound and, planned, northbound bike and pedestrian path adjacent to the SMART right of way that will link up with existing bike and pedestrian circulation systems within the City.

Based on the site, its context, and the design standards described above, and those discussed earlier for finding B, the Project's overall design is well suited for the Project Site and is compatible with surrounding planned uses, namely planned development to the north.

#### **Section 4. Precise Development Plan Recommendation**

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission does hereby recommend the City Council approve amending the McPhail's Commercial Office Development Precise Development Plan, City Council Resolution No. 87-08, to void references in the development standards to Floor Area Ratio (FAR), and permitted uses and uses requiring a use permit pursuant to the BPO zoning district as specified in Table 2-7, Section 19.12.030 of the Zoning Ordinance, which are adequately and appropriately contained in the McPhail's Commercial Office Development Master Plan as amended, based on the findings set forth herein and Exhibit A, attached hereto and incorporated herein by reference, and subject to the following conditions of approval.

#### **Section 6. Conditions of Approval and Indemnity and Time Limitations**

1. Mitigation Measure AIR-1: Prior to issuance of demolition, grading, and/or building permits the applicant shall submit an inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:
  - a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.



2. Mitigation Measure AIR-1: All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
3. Mitigation Measure AIR-1: All haul trucks transporting soil, sand, or other loose material off site shall be covered. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
4. Mitigation Measure AIR-1: All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
5. Mitigation Measure AIR-1: All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
6. Mitigation Measure AIR-1: All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
7. Mitigation Measure AIR-1: Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
8. Mitigation Measure AIR-1: All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
9. Mitigation Measure AIR-1: The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.
10. Mitigation Measure BIO-1: If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for any raptor or other nesting migratory bird nests within or

immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.

11. Mitigation Measure CUL-1: In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.
12. Mitigation Measure CUL-2: If a suspected paleontological fossil is encountered, project construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, the find shall be recorded and salvaged by a qualified paleontologist.
13. Mitigation Measure CUL-3: If human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.
14. Mitigation Measure H-1: Site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

- 15 The Project is subject to existing mitigation measures set forth in the previously adopted mitigated negative declaration, Resolution No. 86-08, and all conditions of approval set forth in the approved Precise Development Plan, Resolution No. 87-08 and Tentative Map, Resolution No. 87A-08.
16. Indemnity and Time Limitations
- a. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's recommendation to the City Council at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.
  - b. The developer and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.
  - c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the developer of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the developer.
  - d. The developer and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
  - e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the    day of, 2017, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\*                    \*                    \*                    \*                    \*                    \*

I HEREBY CERTIFY that the foregoing is a full, true and correct copy of the resolution which was adopted by the Planning Commission, City of Novato, County of Marin, State of California, on the    day of   , 2017.

\_\_\_\_\_  
Chair

Attachments

Exhibit A - Novato General Plan & Master Plan Consistency Findings

Ref: 116038

## EXHIBIT A

### MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT

#### NOVATO GENERAL PLAN & MASTER PLAN CONSISTENCY FINDINGS

The following discussion lists policies of the 1996 Novato General Plan and amended McPhail's Commercial Office Development Master Plan applicable to the Project, including the Precise Development Plan Amendment, and provides facts in support demonstrating the Project's consistency therewith.

#### **1996 NOVATO GENERAL PLAN**

##### ***LAND USE CHAPTER***

LU Policy 1 Implementation of Land Use Map. Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use definitions, densities and intensities indicated in LU Table 2. Ensure consistency between the General Plan, the Zoning Ordinance, and other land use regulations.

LU Policy 2 Development Consistent with General Plan. Allow development at any density within the range shown by the Land Use Designations Map provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities (top of stated density range applied to total gross acreage) may in some cases be achieved, but there is no guarantee of achieving the maximum density.

Facts in Support: The Project includes a general plan amendment to change the land use designation applicable to the Project Parcel from Business and Professional Office (BPO) to Light Industrial Office (LIO). This action would uniformly apply the LIO land use designation to a 4.9 acre area as depicted in Exhibit A. The Project also includes a zoning amendment in the form of a master plan amendment that would assign new land use categories to the Project Site as follows:

McPhail's Commercial Office Development principally permitted uses and those uses requiring a use permit:

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required
- Restaurant with Alcohol Sales - Use Permit required

- Auto Sales – Use Permit required

With the exception of Fleet Vehicle Parking, all of the land use contained in the master plan amendment and as listed above match uses contained in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan. Regarding Fleet Vehicle Parking as defined in the master plan amendment, it too is found to be a suitable use in the LIO land use designation of the Novato General Plan inasmuch as it is a use recognized as being comparable to Vehicle Storage, which may be allowed in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan.

The maximum amount or massing of development, referred to locally as Floor Area Ratio (FAR), allowed under both the BPO and LIO land use districts of the Novato General Plan is 0.4. So no change in the FAR of 0.4 currently allowed for the Project Site would result by amending the General Plan Land Use designation from BPO to LIO. Additionally, no change in the FAR for the approved Project is proposed with the master plan amendment. The master plan allows for a 62,000 square foot office complex, which is equivalent to an FAR of 0.29 for the Project Site and well under the maximum FAR of 0.4 allowed in both the BPO and LIO land use districts of the Novato General Plan.

Based on the facts above, the Project is hereby found to be consistent with and advance LU Policies 1 and 2.

LU Policy 7 Growth Management. Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

Facts in Support: The approved Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to insure the Project provides adequate infrastructure. These conditions of approval were adopted for the Project and are to be implemented through the construction design and physical construction phases of the Project. These agencies did not identify any service constraints to serve the Project on an individual or cumulative basis. Additionally, the proposed new uses allowed in the master plan have been considered relative to the capacity of infrastructure and services for the Project and no significant demand increase was identified e.g. the nature of the proposed uses would, in general, use more building space for storage and/or processing, which results in fewer vehicle trips compared to the range of office uses allowed in the BPO zoning district thereby reducing demand on the adjacent circulation system.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services including police and fire protection and public utilities to serve the approved Project and the associated proposed land use amendments. The IS/MND confirmed all public services have

sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with LU Policy 7.

### ***TRANSPORTATION CHAPTER***

TR Policy 4 Level of Service Standards. Establish traffic Level of Service (LOS) standards for use in (1) evaluating the impacts of proposed development projects so the project can be redesigned or effective mitigation measures can be implemented, (2) making improvements to the roadway system, and (3) determining appropriate traffic impact fees.

Facts in Support: The CEQA IS/MND prepared for the proposed land use amendments analyzed a traffic study that was prepared for the 2008 approved project that concluded the additional traffic generated by the project would have no significant impact to the surrounding network area. No mitigations were required for the original project. Additionally, the CEQA IS/MND prepared for the proposed land use amendments points out that the nature of the changed uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan would, in general, use space to store and/or process material. These uses would create fewer trips compared to the dense use of office buildings with office employees and visitors allowed under the BPO zoning district. Thus the proposed land use and zoning change would have a less-than-significant impact on the performance of the circulation system or conflict with an applicable congestion management program.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with TR Policy 4.

### ***ENVIRONMENT***

EN Policy 7 Water Quality: Encourage protection of water resources from pollution and sedimentation, and preserve their environmental and recreation values.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section IX, Hydrology and Water Quality, of the IS/MND, the Project would be required to comply with the City of Novato's stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

Additionally, pursuant to mitigation measure H-1, the Novato Public Works Department is requiring that the Project's site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan. The proposed drainage design

will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

Based on the facts in support noted above, and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 7.

EN Policy 18 Species Diversity and Habitat. Protect biological resources that are necessary to maintain a diversity of plant and animal species.

Facts in Support (EN Policy 18): As analyzed in Section IV, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1 the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffers areas and consultation with the California Department of Fish and Wildlife.

Based on the findings of the CEQA IS/MND and the noted mitigation measure, incorporated herein by reference, the Project is considered to be consistent with and advance EN Policy 18.

EN Policy 29 Energy Conservation Measures in Buildings. Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

Facts in Support: The Project is required to comply with the uniform energy efficiency requirements of the California Building Code and Title 24 of the California Code of Regulations. In addition, the Project is required to comply with Novato's Green Building Ordinance. These regulatory documents require various energy efficiency features, such as minimum R-value insulation, energy efficient windows, and low-energy use lighting systems. The Project's construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of a building permit.

Based on the noted facts above, the Project is hereby found to be consistent with and advance EN Policy 29.

EN Policy 34 Local Efforts. Encourage local efforts to improve air quality.

Facts in Support: As described in Section III, Air Quality, of the CEQA IS/MND, the Project does not exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold for operational emissions. However, since the Project involves new construction and the operation of construction equipment, the potential construction related air pollutant emissions resulting from



the Project were modeled and compared against the quantified thresholds of significance developed by the BAAQMD.

The BAAQMD construction thresholds address air pollutant emissions resulting from the operation of gasoline and diesel powered construction equipment, paving, general construction, the application of architectural coatings (paint), and the release of dust due to demolition and ground disturbing activities. The thresholds are typically measured by average daily emissions rather than maximum daily emissions. The thresholds represent both a project specific and cumulative impact threshold. That is, if a project exceeds a given threshold at the project level it is also considered to result in a cumulative impact. Conversely, a project that remains within a given threshold is not considered to result in cumulative impacts.

According to the IS/MND, the Project does not have the potential to exceed BAAQMD's thresholds for Reactive Organic Gas (ROG) and oxides of nitrogen (NO<sub>x</sub>) based on a maximum daily emissions level. On an average daily emissions threshold basis, the Project remains well under BAAQMD's threshold for ROG and NO<sub>x</sub>. While the project remains well under BAAQMD's threshold for ROG and NO<sub>x</sub>, Mitigation Measure AIR-1 is recommended to further reduce maximum daily ROG and NO<sub>x</sub> emissions to a less-than-significant level. Additionally, Mitigation Measure AIR-1 is intended to address the prevention of fugitive dust.

Mitigation Measure AIR-1 requires a number of actions to minimize the release of gasoline and diesel constituents and fugitive dust during construction of the Project. The measures below are based on BAAQMD's Basic Construction Emission Control Measures:

1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:
  - a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
  - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
  - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.
4. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
6. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne

Toxics Control Measure Title 13, Section 2485, of the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.

8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

Based on the findings of the CEQA IS/MND and the implementation of Mitigation Measure AIR-1, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 34

EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 35.

EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 37.

EN Policy 39 On-Site Recycling Areas. Require on-site areas for recycling in commercial/retail, office and multi-family residential developments as required by State law.

Facts in Support: The Project incorporates three trash and recycling storage areas proximal to all three buildings. Therefore, the Project is hereby found to be consistent with EN Policy 39.

## ***SAFETY & NOISE***

SF Policy 1 Seismic Hazards. Reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards.

Facts in Support: Seismic hazards and soil stability are addressed in Section VI, Geology and Soils, of the CEQA IS/MND prepared for the Project. The geotechnical analysis contained in the IS/MND determined that the Project would likely be subject to strong earthquake shaking during its lifespan. However, development of the site would not present any geologic or seismic risks that are unique or unusual for the region. Application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., the California Building Code [CBC], City ordinances and conditions of approval) would be adequate to address seismic

hazards.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 1.

SF Policy 37 Noise and Land Use Compatibility Standards. Encourage the maintenance of the noise and land use compatibility standards indicated in SF Table 3. The normally acceptable standards for outdoor noise are summarized below [noise measurements in  $L_{dn}$ ]:

**SF TABLE 3**

Residential Development	up to 60 dB
Transient Lodging: Motel and Hotel	up to 60 dB
School, Library, Church, Hospital and Nursing Home	up to 60 dB
Auditorium, Concert Hall, Amphitheater	up to 70 dB
Sports Arena, Outdoor Spectator Sports	up to 70 dB
Playgrounds, Neighborhood Parks, Open Space	up to 65 dB
Golf Course, Cemetery	up to 70 dB
Office Building, Business, Commercial & Professional	up to 70 dB
Industrial, Manufacturing, Utilities	up to 70 dB

Facts in Support: As described in Section XII, Noise, of the CEQA IS/MND, operational noise produced by the building facilities such as heating and air conditioning units (or other elements such as emergency generators) would not be significantly different under any of the proposed changes in uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. All such facilities would be subject to compliance with the City of Novato noise ordinance requirements and thus noise impacts would remain less than significant.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 37.

### ***ECONOMIC DEVELOPMENT & FISCAL VITALITY***

EC Policy 2 Commercial Lands. The City should encourage the development of commercial lands primarily for economic activities that contribute to local employment and income.

Facts in Support: In addition to offices, current business growth in Novato includes small scale manufacturing, wholesaling and distribution operations, which are not allowed in the current Master Plan/Precise Development. The select list of uses proposed for the Master Plan amendment, which includes small scale manufacturing, wholesaling and distribution are intended to better serve and attract a wider range of companies that in turn are expected to increase local employment and

income.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 2.

### ***PUBLIC FACILITIES & SERVICES***

PF Policy 5 Potable Water. Ensure adequate water supply for new and existing development.

PF Policy 6 Water Conservation. Develop and implement water conservation programs for Novato.

Facts in Support: The approved Project was referred to the North Marin Water District for review and comment. The Water District did not identify any potential problems meeting the water demands of the Project despite the recent, multi-year drought in California. The Water District requested the Project comply with the District's water conservation ordinance. The District's water conservation ordinance addresses plumbing fixtures, plant selection, and irrigation features. The proposed land use change to LIO and the uses proposed in the master plan amendment are not expected to cause an increase in water demand associated with the approved Project.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 5 and 6.

### ***COMMUNITY IDENTITY***

CI Policy 1 Compatibility of Development with Surroundings. Ensure that new development is sensitive to the surrounding architecture, topography, landscaping, and to the character, scale, and ambiance of the surrounding neighborhood. Recognize that neighborhoods include community facilities needed by Novato residents as well as homes, and integrate facilities into neighborhoods.

Facts in Support: The Project received a formal design approval from the City's Design Review Commission on April 6, 2016, wherein the Commission found, in part, that the Project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 1.

CI Policy 9 Undergrounding Utilities. Continue to require undergrounding of utilities.

Facts in Support: All utilities serving the Project will be placed underground.

Based on the fact set forth above, the Project is hereby found to be consistent with CI Policy 9.

CI Policy 12 Parking Standards. Reduce the visibility of parking facilities and the amount of land necessary for them to the maximum extent feasible.

Facts in Support: Parking would be primarily provided in three parking areas: 1) across the frontage of the Project adjacent to Hana Ranch Road, between the three buildings and along the Project site's easterly common boundary with the SMART rail line. These parking areas are relatively flat and include an integrated landscape plan including numerous tree and shrub plantings that are intended to both help obscure views of the parking facility from offsite locations and enhance the visual quality of the project via tree and plant colors seasonally.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 12.

CI Policy 14 Open Areas and Landscaping. Require provision of adequate landscaped, open areas in project design.

Facts in Support: The Project features a variety outdoor spaces for business occupants and visitors. These areas are considered to be adequate and attractive inasmuch as they are well landscaped and in most instances incorporate pedestrian pathways for circulation and enjoyment by the Project's occupants and visitors.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 14.

CI Policy 15 Pedestrian Paths. Provide for maximum feasible pedestrian circulation.

Facts in Support: The Project includes integrated pedestrian pathways throughout the site serving all three buildings. Additionally, the Project includes a new sidewalk along its Hanna Ranch Road frontage that can be accessed from an existing dedicated bike and pedestrian pathway that leads south to Hamilton Drive. These pedestrian paths provide adequate pedestrian circulation and enhance connectivity to existing pedestrian facilities.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 15.

CI Policy 30 Archaeological Resources Protection: Continue to protect archaeological resources.

Facts in Support: No historic or archaeological resources were found during past operations on the site or are known to exist, based the results of intensive pedestrian survey, North West Information Center records search, and Native American Heritage Commission records search. The General Plan land use designation change from BPO to LIO and amendment to the Master Plan and Precise Development Plan would not affect historical or archaeological resources as the project site remains at the same location. However implementation of Mitigation Measure CUL-1 would ensure that impacts to archaeological resources would remain less than significant. Mitigation Measure CUL-1 requires that in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending

upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

Based on the archeological analyses performed for the Project and application of the noted mitigation measure, the Project is not anticipated to have an adverse effect on archeological resources. Accordingly, the Project is hereby found to be consistent with CI Policy 30.

### **MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN**

The Precise Development Plan text amendments void references in the development standards to Floor Area Ratio (FAR), and permitted uses and uses requiring a use permit pursuant to the BPO zoning district as specified in Table 2-7, Section 19.12.030 of the Zoning Ordinance, which are adequately and appropriately contained in the McPhail's Commercial Office Master Plan as amended. Given these facts, the Project's Precise Development Plan text amendments are hereby found to be consistent with the McPhail's Commercial Office Development Master Plan as amended.

# Agenda Item 6 - Attachment 5

**THOMPSON**  
DEVELOPMENT INC.

AN AFFILIATE OF WEST BAY BUILDERS INC.

250 BEE MARIN BLVD, BLDG. A  
EMERYVILLE, CALIFORNIA 94616  
415.856.8972 TEL  
415.862.0896 FAX

October 30, 2017

Hand Delivered

Hans Grunt  
Community Development Dept.  
City of Novato  
1400 Fifth Ave.  
Novato, CA 94945

RE: McPhails Commercial Office Condos – APN: 153-220-16 & 19  
General Plan, Precise Development Plan and Master Plan Amendment

Dear Hans,

As you know, in December of 2017 we submitted a Building Permit Application and Subdivision Improvement Plans for the above referenced project. We have been through several rounds of comments and revisions with the appropriate agencies, and currently have Building and Fire Department Approval of the proposed working drawings. We are very excited to commence construction when the permit is issued. For your reference I have included a copy of the approved schematic drawings. Our parent company Thompson Builders, Corp. will occupy Building A. Buildings B & C sit on a separate second lot which will be occupied by one or more other local businesses.

These parcels are currently zoned PD – BPO (Planned Development – Business Professional Office). However, the type of uses allowed under this zoning designation are very restrictive and do not permit for the flexibility which is highly sought after by many companies looking for office space in Novato. Light Industrial Office space is in very high demand and very low supply in Novato and Marin County as a whole. Thus, we have submitted an application for a General Plan, Master Plan and Precise Development Plan Amendment to rezone the property to PD-LIO.

Though we have requested a General Plan Amendment to change the zoning designation from BPO to LIO, we have requested that only a fraction of the uses typically allowed under the LIO designation be included as permitted uses on this site. One of the benefits of the PD-Planned Development Land Use Designation is that it allows the City to selectively choose the allowed uses and dictate rules regarding use, storage, fleet vehicle parking, etc. to ensure that the future project is maintained and operated as intended by the City.

Below please find a list of uses proposed under the current application:

1. Offices
2. Handcraft industries, small-scale manufacturing
3. Warehouses, wholesaling and distribution
4. Business Support Services
5. Upholstering shops
6. Equipment rental (indoor only)
7. Florists
8. Fleet Vehicle parking – Use Permit required
9. Minor Auto Repair and Maintenance - Use permit required
10. Restaurant – Use Permit required
11. Restaurant with Alcohol Sales – Use Permit required
12. Auto Sales – Use Permit required

For context, below is a list of uses allowed under LIO, but not BPO, that would not be allowed at this site under the proposed Precise Development Plan:

1. Quarry materials storage and processing
2. Recycling facilities of any kind
3. Adult oriented businesses
4. Indoor amusement/entertainment facilities
5. Auto part sales
6. Auto sales and rental
7. Bars and night clubs
8. Drive in and drive through sales
9. Mobile home, RV and boat sales
10. Outdoor displays, temporary or permanent
11. Contractor storage yard
12. Gas Stations
13. Kennels and boarding
14. Tattoo parlor
15. Veterinary clinics



Lastly, City Staff has made it clear that the site must be well maintained and that uses such as outdoor storage will not be allowed. We fully expect that this will be spelled out in the conditions of approval to be included in the project CC&Rs.

As always, we appreciate all of the hard work you have put into reviewing our application and preparing the forthcoming Initial Study and Staff Report. We look forward to a Planning Commission hearing in December 2017.

Sincerely,

A handwritten signature in blue ink that reads "Casey" followed by a stylized flourish.

Casey Clement  
Owner's Representative

Cc: Paul Thompson  
Managing Member  
P&K Hanna Ranch, LLC

# Agenda Item 6 - Attachment 6

## Attachment 6

### Proposed Uses and Uses Requiring a Use Permit as Defined in Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Zoning Ordinance

- **Offices:** This Zoning Ordinance distinguishes between the following types of office facilities. These do not include: medical offices (see "Medical Services - Clinics and Laboratories"); or offices that are incidental and accessory to another business or sales activity that is the primary use. Incidental offices that are customarily accessory to another use are allowed as part of an approved primary use.
  1. *Administrative/Business.* Establishments providing direct services to consumers, such as insurance agencies, real estate offices, utility company offices, etc.
  2. *Government.* City, and other local, state, and federal government agency or service facilities. Includes post offices, but not bulk mailing distribution centers, which are under "Truck and Freight Terminals."
  3. *Production.* Office-type facilities occupied by businesses engaged in the production of intellectual property. These uses include:
    - advertising agencies
    - architectural, engineering, planning and surveying services
    - computer software production and programming services
    - educational, scientific and research organizations
    - media postproduction services
    - photography and commercial art studios
    - writers and artists offices
  4. *Professional.* Professional offices including:
    - accounting, auditing and bookkeeping services
    - attorneys
    - counseling services
    - court reporting services
    - data processing services
    - detective agencies and similar services
    - employment, stenographic, secretarial and word processing services
    - literary and talent agencies
    - management and public relations services
  5. *Temporary.* A mobile home, recreational vehicle or modular unit used as a temporary office facility. Temporary Offices may include: construction supervision offices on a construction site or off-site construction yard; a temporary on-site real estate office for a development project; or a temporary business office in advance of permanent facility construction.

- **Handcraft industries, small-scale manufacturing:** Establishments manufacturing and/or assembling small products primarily by hand, including jewelry, pottery and other ceramics, as well as small glass and metal art and craft products.
- **Warehouses, wholesaling, and distribution:** *Warehouses.* Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include: warehouse, storage or mini-storage facilities offered for rent or lease to the general public (see "Storage, Personal Storage Facilities"); warehouse facilities in which the primary purpose of storage is for wholesaling and distribution (see "Wholesaling and Distribution"); or terminal facilities for handling freight (see "Vehicle and Freight Terminals").

2.

*Wholesaling and Distribution.* Establishments engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Includes such establishments as:

agents, merchandise or commodity brokers, and commission merchants  
 assemblers, buyers and associations engaged in the cooperative marketing of farm products  
 merchant wholesalers  
 stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment.

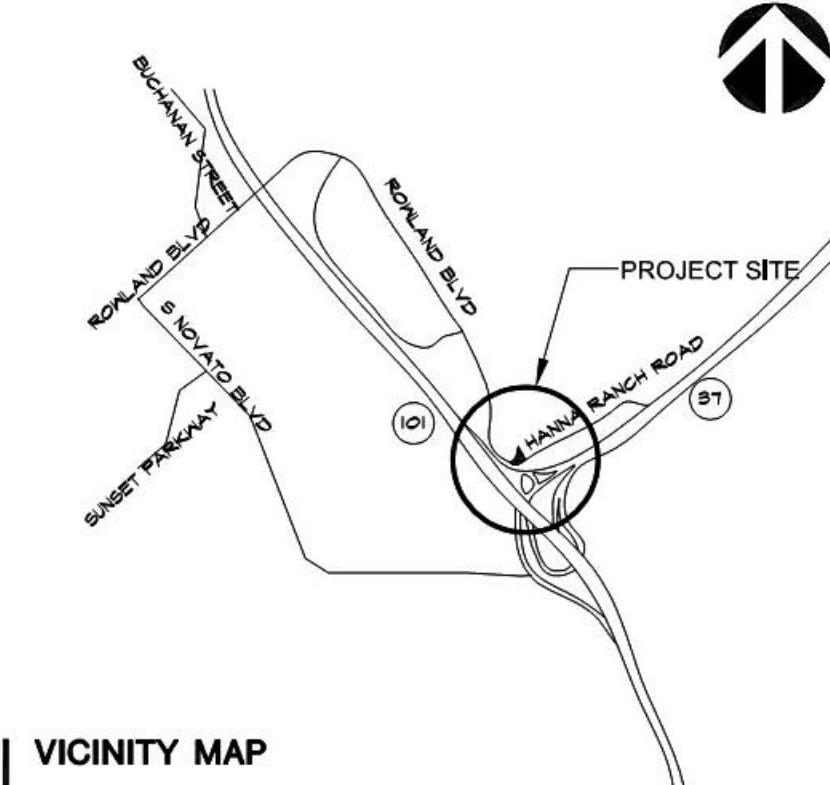
- **Business Support Services:** Establishments primarily within buildings, providing other businesses with services including maintenance, repair and service, testing, rental, etc., also includes:

blueprinting  
 business equipment repair services (except vehicle repair, see "Vehicle Services")  
 commercial art and design (production)  
 computer-related services (rental, repair)  
 copying and quick printing services  
 equipment rental businesses within buildings (rental yards are under "Outdoor Retail Sales and activities")  
 film processing laboratories  
 heavy equipment repair services where repair occurs on the client site  
 janitorial services  
 mail advertising services (reproduction and shipping)  
 outdoor advertising services  
 photofinishing  
 protective services (other than office related)  
 soils and materials testing laboratories  
 window cleaning

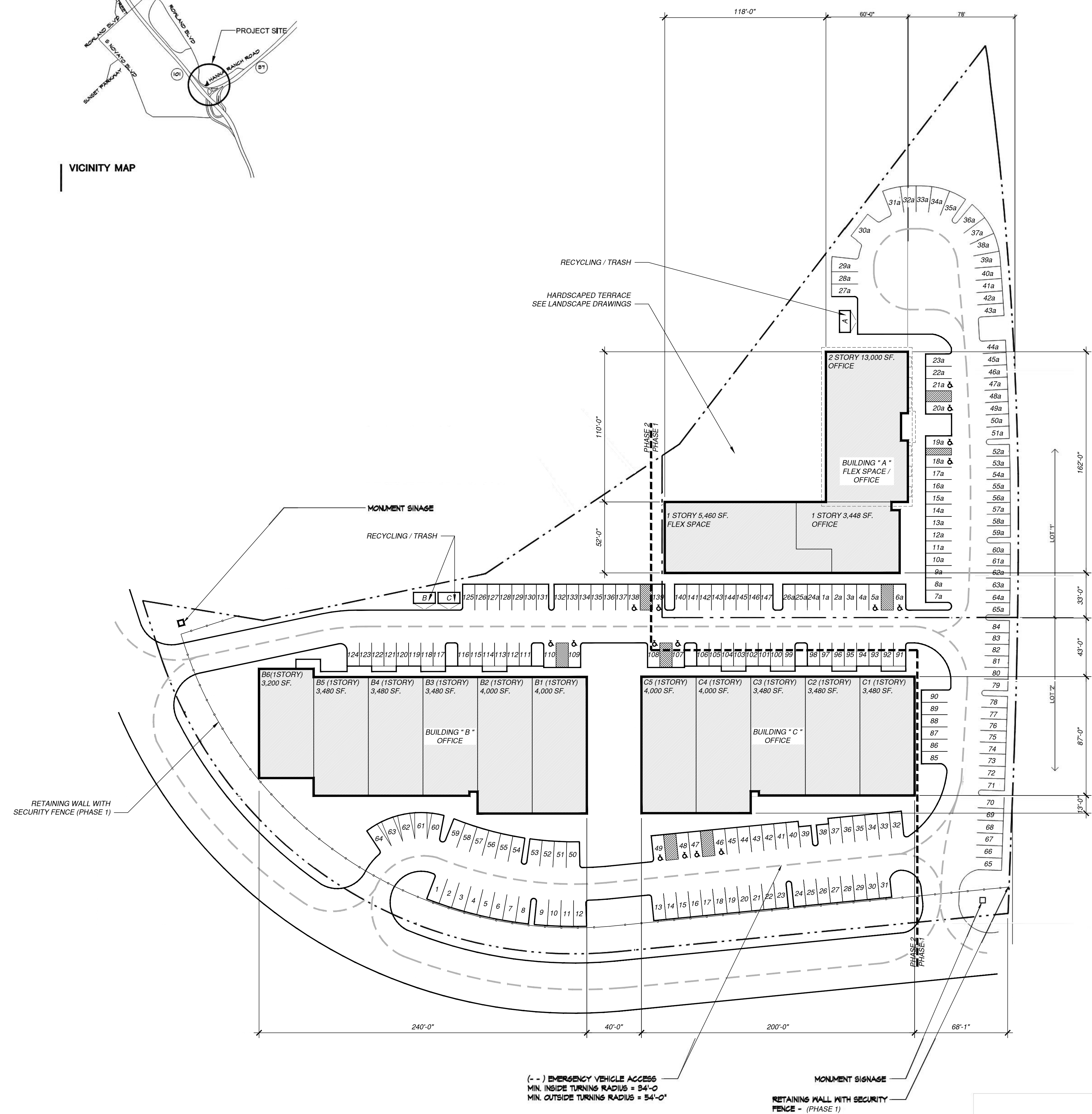
- **Upholstering shops:** An establishment engaged in the craft of upholstering, including the repair and replacement of furniture and auto seat coverings.
- **Equipment rental (indoor only):** Service establishments which may offer a wide variety of materials and equipment for rental. Construction equipment rental is separately defined.
- **Florists:** A use engaged in the retail sale of flowers and ornamental plants.
- **Minor Auto Repair and Maintenance (Use Permit required):** Businesses involved in the repair, restoration, or alteration of minor vehicle components, including the replacement of tires, tubes, and batteries; diagnostic services, minor motor services such as grease, oil, spark plug, and filter part changes, radiators, mufflers, performing state inspections and making minor repairs necessary to pass said inspection; servicing of air-conditioning systems, wheel/tire balancing and alignments, brakes, automotive glass and upholstery; stereo installations, and other similar minor services for motor vehicles except heavy load vehicles.
- **Restaurant (Use Permit required):** A retail business selling ready-to-eat food for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption, and establishments where most customers are served food at tables for on-premise consumption, but may include providing food for take-out. Also includes coffee houses.
- **Restaurant with Alcohol Sales (Use Permit required):** A retail business selling ready-to-eat food for on- or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on- or off-premise consumption, and establishments where most customers are served food at tables for on-premise consumption, but may include providing food for take-out. Also includes coffee houses.
- **Auto Sales (Use Permit required):** Retail establishments selling and/or renting automobiles, trucks and vans. May also include repair shops and the sale of parts and accessories, incidental to the primary auto sales and/or rental use. Does not include: bicycle (see "General Retail"); mobile home sales (see "Mobile Home, RV and Boat Sales"); tire recapping establishments (see "Auto Repair"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Gas Stations," which are separately defined.
- **Fleet Vehicle parking (Use Permit required)\*:** Fleet Vehicle Parking can include groups of nine or more motor vehicles owned or leased by a business, government agency or other organization rather than by an individual or family. Typical examples are vehicles operated by car rental companies, taxi cab companies, public utilities, bus companies, parcel delivery service, equipment (e.g., plumbing, electrical, landscaping, solar) installation and repair service, and police departments. Additionally, fleet vehicle does not include tractor trailers, heavy equipment or vehicles designed for executing construction tasks.

\*A use definition tailored for this Master Plan that is not included in Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Novato Zoning Ordinance.





VICINITY MAP



**PROJECT TOTAL (LOT 1)**

SITE ACREAGE - 69,452 SQ.FT. (1.594 ACRES)

<b>BUILDING - A -</b>	
FLEX SPACE	5,480 SQ.FT.
GROUND FLOOR (OFFICE)	9,948 SQ.FT.
SECOND FLOOR (OFFICE)	6,500 SQ.FT.
<b>TOTAL</b>	<b>21,928 SQ.FT.</b>

LOT 1 FAR 0.315

<b>PARKING REQUIREMENT</b>	
FLEX - 1 CAR PER 1500 SQ.FT.	4 CARS
GROUND FLOOR OFFICE	60 CARS
SECOND FLOOR OFFICE	64 CARS
<b>TOTAL REQUIRED</b>	<b>64 CARS</b>

PROVIDED 65 CARS

**PROJECT TOTAL (LOT 2)**

SITE ACREAGE - 144,020 SQ.FT. (3.3 ACRES)

<b>BUILDING - B - (OFFICE)</b>	
B1 - GROUND FLOOR	4,000 SQ.FT.
B2 - GROUND FLOOR	4,000 SQ.FT.
B3 - GROUND FLOOR	3,480 SQ.FT.
B4 - GROUND FLOOR	3,480 SQ.FT.
B5 - GROUND FLOOR	3,480 SQ.FT.
B6 - GROUND FLOOR	3,200 SQ.FT.
<b>TOTAL</b>	<b>21,640 SQ.FT.</b>

<b>BUILDING - C - (OFFICE)</b>	
C1 - GROUND FLOOR	3,480 SQ.FT.
C2 - GROUND FLOOR	3,480 SQ.FT.
C3 - GROUND FLOOR	3,480 SQ.FT.
C4 - GROUND FLOOR	4,000 SQ.FT.
C5 - GROUND FLOOR	4,000 SQ.FT.
<b>TOTAL</b>	<b>18,440 SQ.FT.</b>

LOT 2 FAR 0.266

**PARKING REQUIREMENT:**

OFFICE - 1 CAR PER 275 SQ.FT.

BUILDING - B - 21,640 / 275 =	79 CARS
BUILDING - C - 18,440 / 275 =	67 CARS
<b>TOTAL REQ.</b>	<b>146 CARS</b>

PROVIDED 147 CARS

**LEGEND:**

- - - DELINEATES PHASE 1 AND PHASE 2

**1** PROPOSED SITE PLAN

SCALE: 1"=40'

**Daniel Macdonald AIA Architects, Inc.**  
 1595 Grant Avenue, Suite 200  
 Novato, California 94945  
 (415) 899-0050 Fax (415) 899-0055

**THE MCPHAL'S COMMERCIAL DEVELOPMENT**  
 Hannah Road,  
 Novato, Marin County, CA

DMAIA PROJECT #: 15031

SCHEMATIC DESIGN	12/23/15
DESIGN REVIEW REVISION	03/14/16

DRAWN BY: DS: EC  
 CHECK BY: DM

**PROPOSED SITE PLAN**





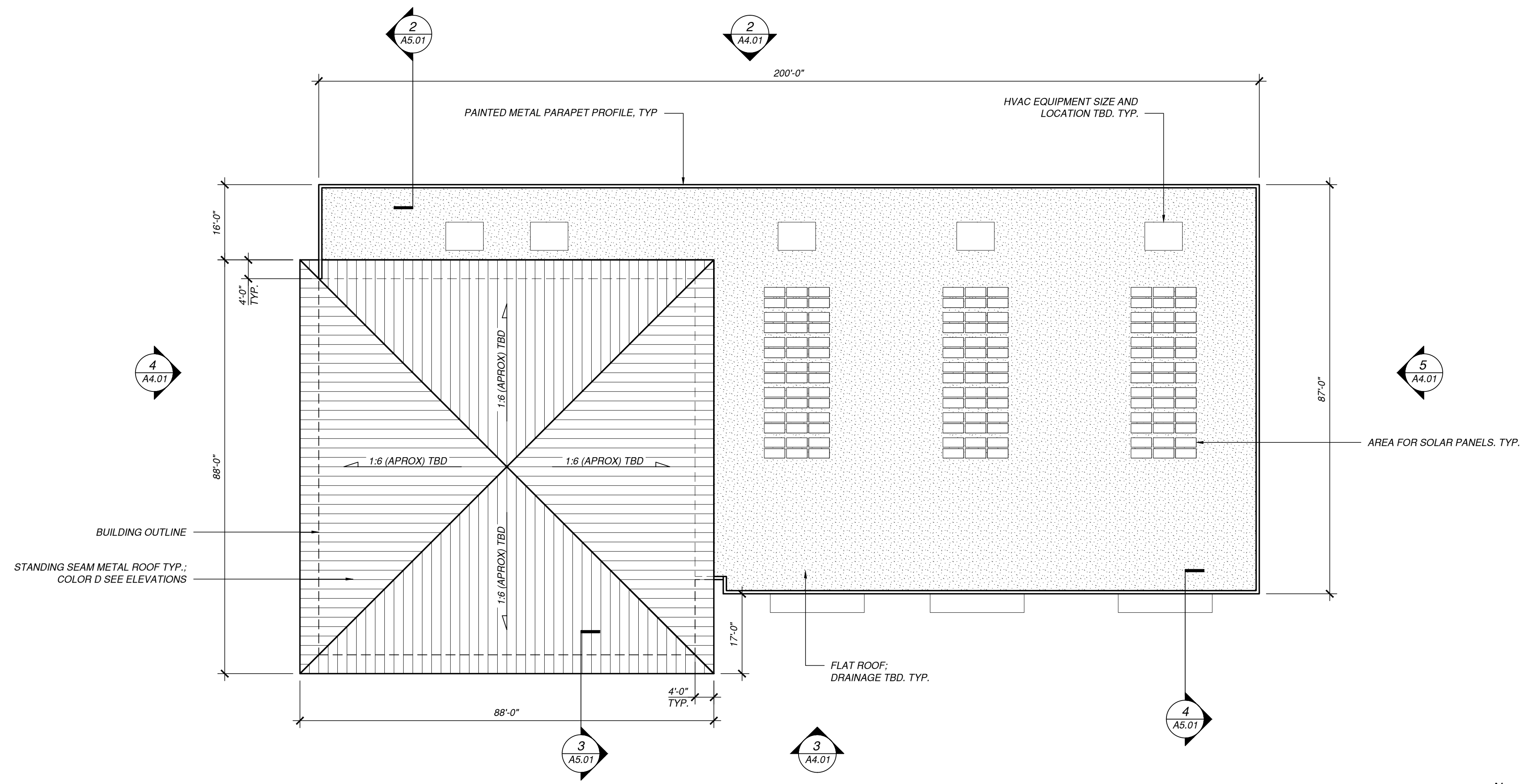






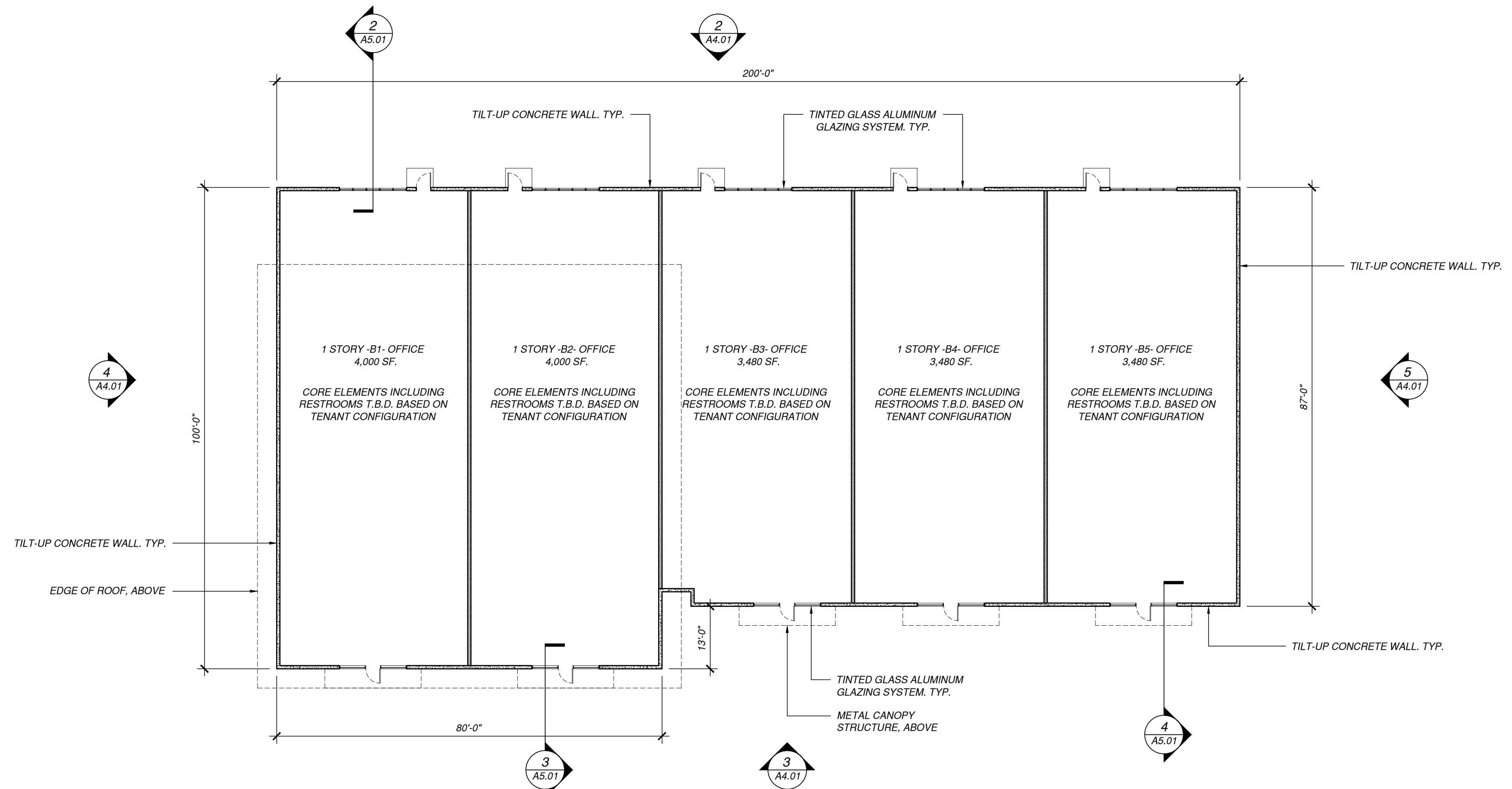






**2** BUILDING C - ROOF PLAN

SCALE: 1/16"=1'-0"



**1** BUILDING C - GROUND FLOOR PLAN

SCALE: 1/16"=1'-0"

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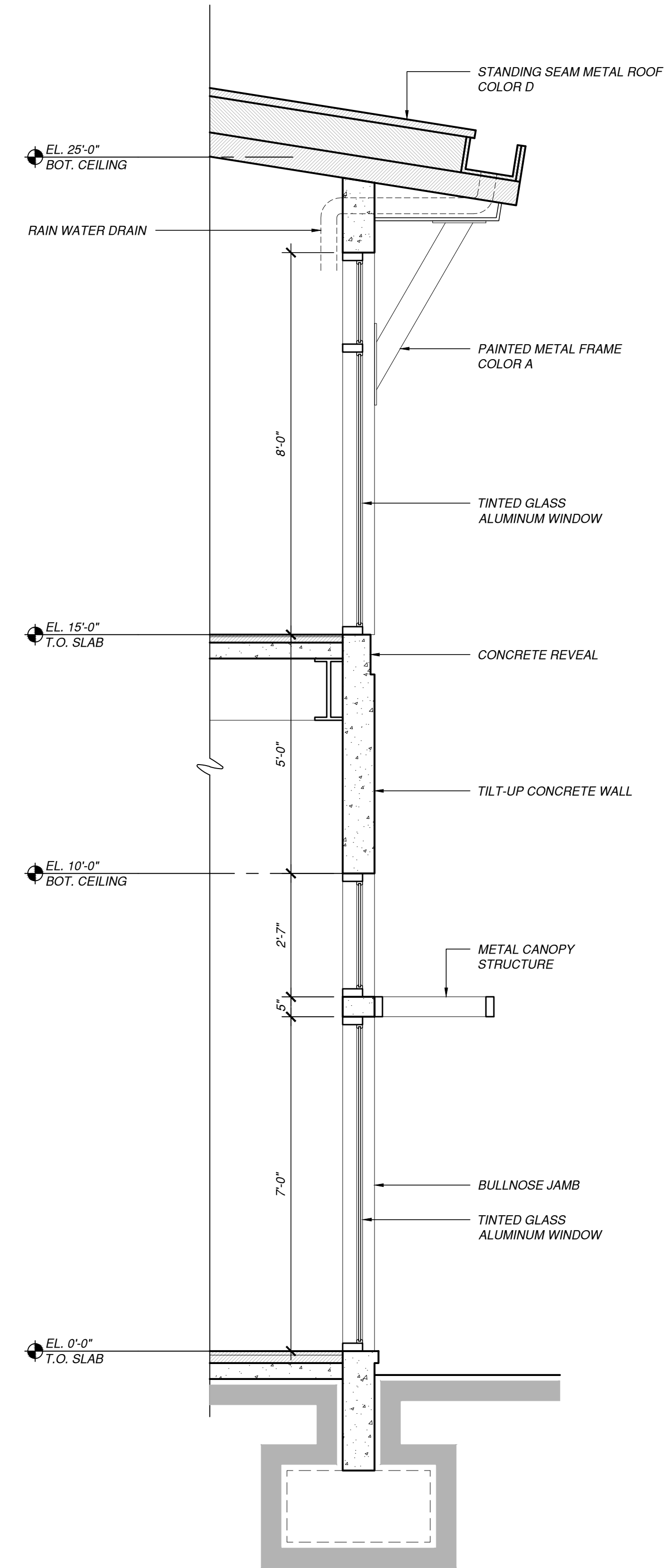
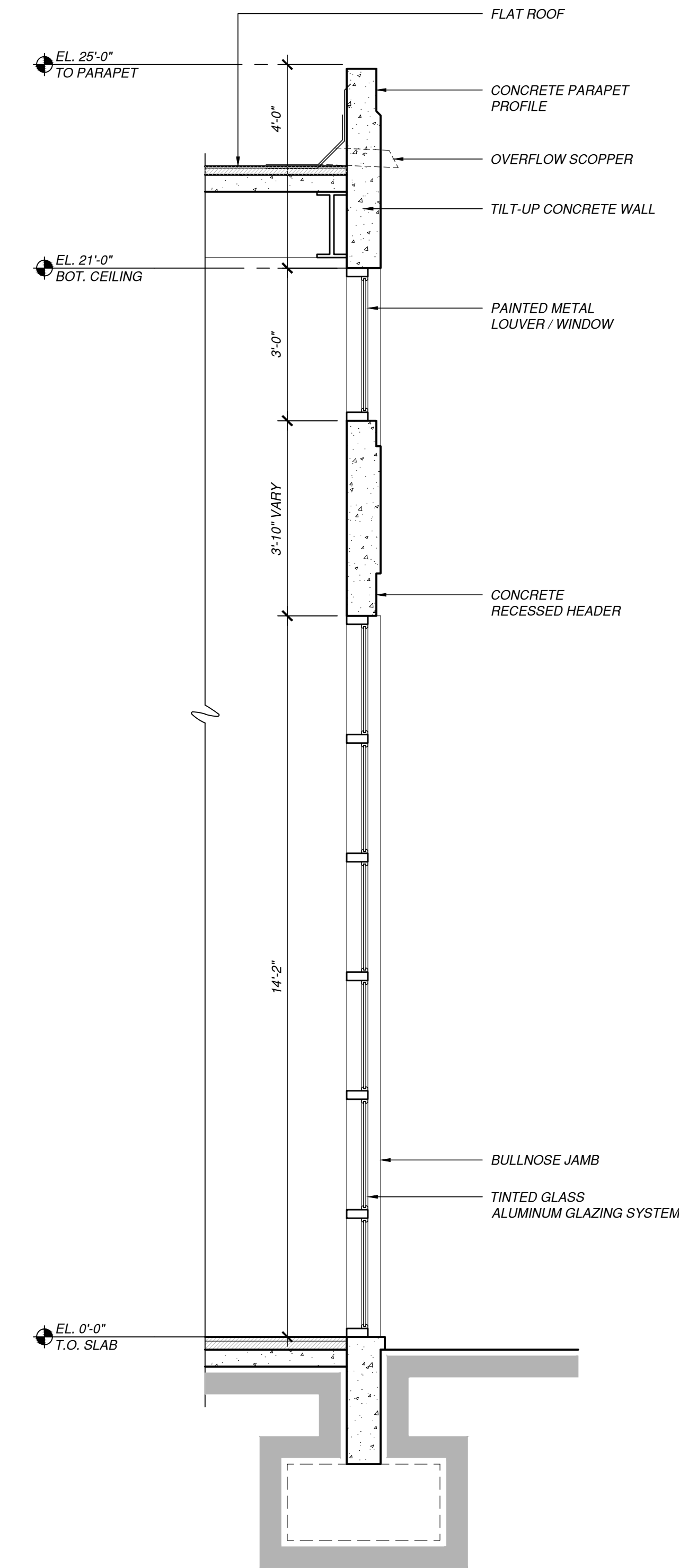
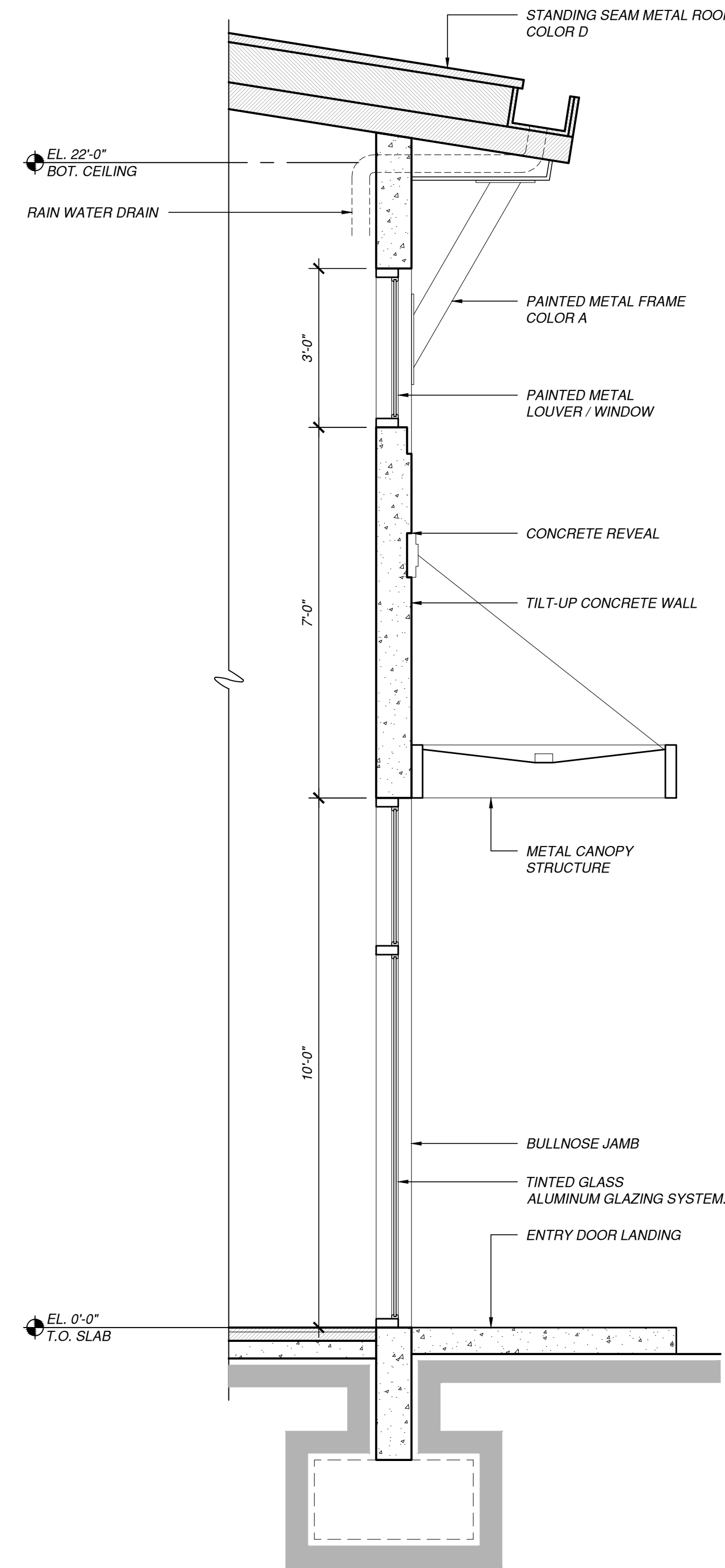
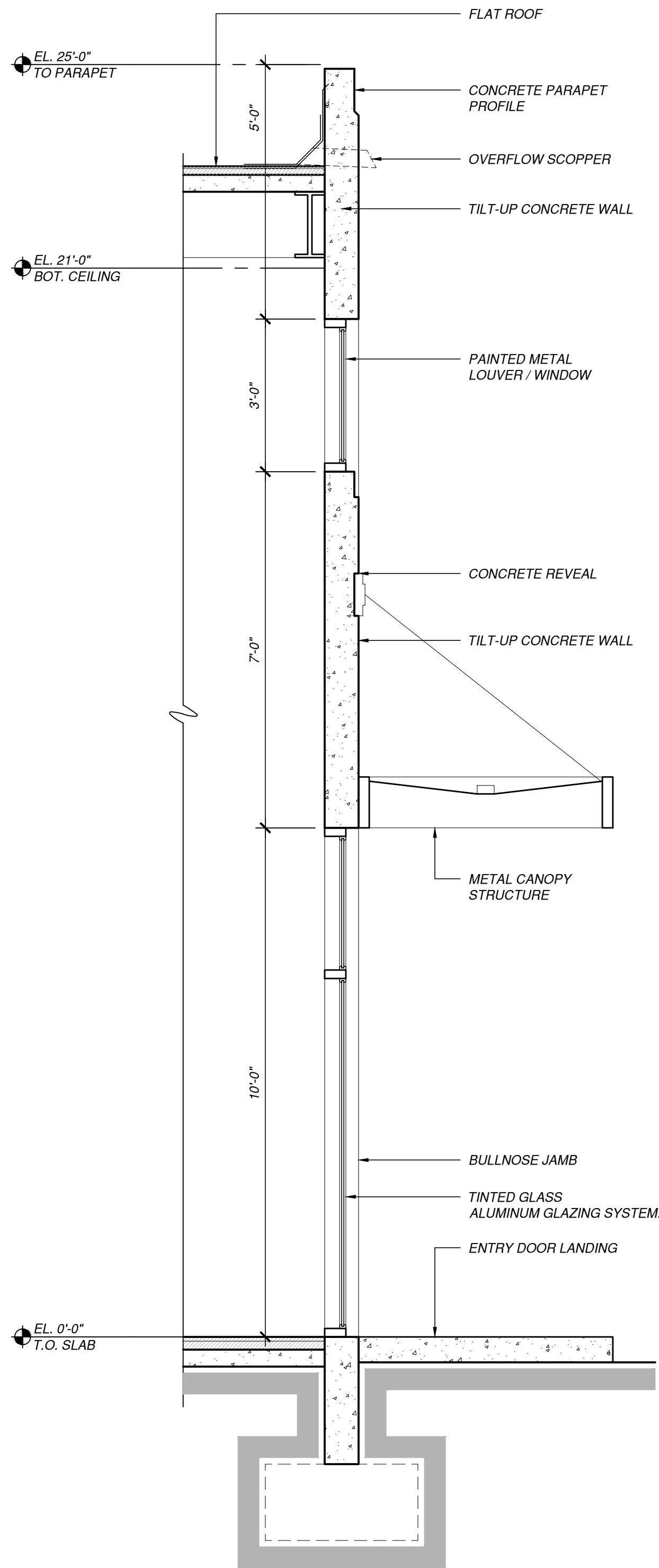
**THE MCPHAIL'S COMMERCIAL DEVELOPMENT**  
 Hannah Road,  
 Novato, Marin County, CA

DMAIA PROJECT #: 15031  
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 DESIGN REVIEW REVISION 03/14/16

DRAWN BY: DS: EC  
 CHECK BY: DM

**BUILDING - C  
 FLOOR & ROOF  
 PLAN**

**A4.02**



**4 TILT-UP CONCRETE WALL SECTION**

SCALE: 1/2"=1'-0"

**3 TILT-UP CONCRETE WALL SECTION**

SCALE: 1/2"=1'-0"

**2 TILT-UP CONCRETE WALL SECTION**

SCALE: 1/2"=1'-0"

**1 TILT-UP CONCRETE WALL SECTION**

SCALE: 1/2"=1'-0"

**THE MCPHAIL'S COMMERCIAL DEVELOPMENT**

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**WALL SECTIONS**

**A5.01**

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