



THE CITY OF  
**NOVATO**  
CALIFORNIA

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Denise Athas  
Madeline Kellner  
Jeanne MacLeamy  
City Manager  
Michael S. Frank

# Planning Commission Meeting

Location: Novato City Hall, 901 Sherman Avenue

November 4, 2013

## MINUTES

**Present:** Robert Jordan, Chair  
Gary Butler, Vice Chair  
Dan Dawson  
Jay Strauss  
Peter Tiernan  
Michael Walker

**Absent:** None

**Staff Present:** Veronica Nebb, Senior Assistant City Attorney  
Bob Brown, Community Development Director  
Elizabeth Dunn, Planning Manager  
Hans Grunt, Senior Planner  
Steve Marshall, Principal Planner

### CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL

The meeting was called to order.

### APPROVAL OF FINAL AGENDA:

M/s: Tiernan/Dawson Ayes: 6 Nays: 0

### PUBLIC COMMENT

A resident commented that paper copies of the meeting agenda should be provided instead of a single-copy in a binder.

### CONSENT CALENDAR:

1. APPROVAL OF MINUTES OF OCTOBER 21, 2013  
(RJ,GB,DD,PT,MW)

M/s Tiernan/Butler (passed 5-0-1) Abstain: Strauss.

### PUBLIC HEARINGS: None

### GENERAL BUSINESS

**CONTINUED ITEMS:**

**2. CITY OF NOVATO HOUSING ELEMENT 2007-2014**

**PART A: RECOMMENDATION ON CERTIFICATION OF FINAL EIR**

**PART B: RECOMMENDATION ON HOUSING ELEMENT, RELATED GENERAL PLAN AND MAP, DOWNTOWN NOVATO SPECIFIC PLAN AND MAP, ZONING ORDINANCE AND MAP, AND NOVATO INDUSTRIAL PARK MASTER AND PRECISE DEVELOPMENT PLAN AMENDMENTS**

The Planning Commission is requested to conduct a public hearing to consider and provide a recommendation to the City Council regarding the following parts of this agenda item:

**Part A: Certification of the Final Environmental Impact Report prepared for the Novato Housing Element 2007-2014 and adoption of CEQA findings, and Mitigation Monitoring and Reporting Program; and**

**Part B: Adoption of the Novato Housing Element 2007-2014 and amendments to the Novato General Plan text and land use map, the Downtown Novato Specific Plan text and land use figure, the Novato Zoning Ordinance text and map, and the Master & Precise Development Plan for the Novato Industrial Park (Ignacio & Hamilton Industrial Park areas) to implement programs of the Housing Element.**

The Planning Commission is requested to receive staff presentations for Parts A and B noted above, ask questions of staff regarding these parts, open the public hearing and receive public testimony, close the public hearing, ask additional questions of staff, deliberate the proposed actions, and consider adopting the following resolutions attached in order:

**1. Resolution of the Novato Planning Commission recommending the Novato City Council certify the Final Environmental Impact Report (SCH No. 2013032070) and adopt the Mitigation Monitoring and Reporting Program for the Novato Housing Element 2007- 2014, and related General Plan and Land Use Map amendments, and Downtown Novato Specific Plan and Land Use Figure amendments, Zoning Ordinance and Map amendments, and amendments to the Novato Industrial Park (Hamilton And Ignacio Industrial Park Areas) Master and Precise Development Plan.**

**2. Resolution of the Planning Commission recommending the City Council adopt an amendment to the Novato General Plan to incorporate the City of Novato Housing Element 2007-2014 and an amendment to the Novato General Plan Land Use Chapter to include an Affordable Housing Opportunity Combining Designation (AHO) and amending the General Plan Land Use Map (Lu Map 1) to assign the AHO Combining Designation to: 1) 1787 Grant Avenue; APN 141-201-12 & 48; 2)**

**Landing Court; APN 153-162-59; 3) Redwood Boulevard; APN 125-202-18; 4) 7506 Redwood Boulevard; APN143-011-08; And 5) 1905 Novato Boulevard; APN 140-011-66.**

**Resolution of the Planning Commission recommending the City Council adopt an amendment to the Downtown Novato Specific Plan, Section 2.2.1, Land Use Classifications, and Land Use Map (Figure 3), to include an Affordable Housing Opportunity Combining Designation (AHO) and to assign the AHO Designation to 7506 Redwood Boulevard; APN 143-011-08.**

**3. Resolution of the Planning Commission recommending the City Council adopt an ordinance amending Chapter XIX of the Novato Municipal Code to establish an Affordable Housing Opportunity Overlay (AHO) District and amend parking regulations relating thereto, establish density bonus provisions, establish provisions and amend definitions for Emergency Shelters, and amend the Novato Zoning Map to apply the AHO District to (rezone): 1) 1787 Grant Avenue; APN 141-201-12 & 48; 2) Landing Court; APN 153-162-59; 3) Redwood Boulevard; APN 125-202-18; 4) 7506 Redwood Boulevard; APN 143-011-08; and 5) 1905 Novato Boulevard; APN 140-011-66.**

**4. Resolution of the Planning Commission recommending the City Council adopt an ordinance amending City of Novato Ordinance No. 780, approving the Master Plan and Precise Development Plan for the Ignacio Industrial Park, Units 1 & 2, and the Hamilton Industrial Park, to include Emergency Shelters as a permitted use under Section III(C)(1) of the Master Plan and Precise Development Plan text in accordance with the City of Novato Municipal Code, Chapter XIX, and the Conservation and Planning Law of the State of California.**

Chair Jordan introduced the agenda item.

Commissioner Butler acknowledged a potential conflict of interest due to his recent purchase of a property for his business in the Bel Marin Keys Industrial Park. He indicated he would be recusing himself with respect to the discussions and potential actions involving allowances for an emergency shelter at the Hamilton and Ignacio Industrial Parks.

### **Staff Presentations**

Community Development Director Bob Brown introduced the Housing Element clarifying that properties designated as affordable housing opportunity sites are typically developed with 20% affordable units and 80% market-rate units in compliance with citywide zoning requirements, and that the next housing element (2014-2022) will have to be adopted by the end of 2014, so the current element will be in effect for only a short period of time.

Senior Planner Grunt discussed the purpose of this evening's hearing, the actions to be

considered by the Planning Commission, and the conduct of the hearing. Senior Planner Grunt also covered the history of the Housing Element process, noting its start in 2009, the formation of the City Manager's Ad Hoc Working Group, and the City Council's selection of five housing opportunity sites in July 2011.

Principal Planner Marshall presented the Final Environmental Impact Report, providing a brief background discussion regarding the Draft EIR and its findings, noting the purpose and content of the Final EIR, summarizing key comments on the Draft EIR, and describing the selection process and considerations for the alternative sites included in the Draft EIR analysis. Principal Planner Marshall also noted that staff was not recommending any alternative site be substituted for the primary Affordable Housing Opportunity (AHO) sites, emphasizing the Draft EIR did not identify any significant and unavoidable impacts associated with the Housing Element and the primary AHO sites.

Senior Planner Grunt described the various legislative amendments accompanying the Housing Element, including amendment of the General Plan, Downtown Specific Plan, Zoning Ordinance, and Hamilton/Ignacio Industrial Parks Master Plan and Precise Development Plan. Senior Planner Grunt noted the various components of each action being requested of the Planning Commission and the key elements of the legislative actions.

Commissioner Butler recused himself during Senior Planner Grunt's discussion of the amendments to permit emergency shelters at the Hamilton/Ignacio Industrial Parks.

### **Planning Commission Questions of Staff**

Commissioner Tiernan: Can staff elaborate on the sliding scale for the state density bonus?

Senior Planner Grunt reviewed state housing density bonus law, noting the available density bonus goes up to a maximum possible 35% as the level of affordability and number of affordable units in a project increases.

Commissioner Strauss: What do alternate sites mean and don't mean? He noted the long process to get to the selected AHO sites and the need to start again for the next housing element cycle. He wanted some assurance that the alternative sites listed in the Draft EIR would not be considered in next housing element cycle.

Community Development Director Brown noted that it may be possible to use the same primary AHO sites for the next Housing Element cycle if they are not developed in the interim.

Commissioner Strauss: Does the AHO Overlay leave the underlying zoning intact?

Community Development Director Brown confirmed that the underlying zoning remains intact and that existing uses may continue. He elaborated that if an AHO site were developed per its underlying non-residential zoning or developed at a density below 20

units per acre, then a new AHO housing site may need to be identified.

Commissioner Strauss: Can staff discuss the alternative site substitutions listed in the staff report, in particular the comment regarding the change in the unit counts if AHO Site 3 were replaced by an alternative site?

Senior Assistant City Attorney Nebb described the effect of removing the alternative sites from the inventory of available units and its ripple effect through the unit count figures previously prepared for the Housing Element. Ultimately, replacing AHO Site 3 is not a straight swap for 80 residential units.

Commissioner Butler: For the cumulative analysis in the EIR – are the five sites evaluated relative to their collective impacts? And, regarding the two sites with the worst environmental impacts, can they be mitigated?

Principal Planner Marshall noted that within the EIR, the sites were evaluated both individually and collectively with respect to potential impacts, and that all environmental impacts can be mitigated

Commissioner Walker: Can staff elaborate on the EIR's consideration of scenic resources?

Principal Planner Marshall noted the EIR relied on information provided by EN Map 3 of the General Plan, which describes scenic resources and scenic hills and ridges. He noted that none of the AHO sites are designated as scenic resources or scenic hills and ridges on EN Map 3. However, there are scenic resources in the area of AHO Site 3, including Mount Burdell to the northwest and the Rush Creek Open Space Preserve to the east. He confirmed AHO Site 3 does not have any areas noted as scenic resources or scenic hills and ridges on EN Map 3.

Commissioner Walker: Inquired whether the PIPA best management practices regarding gas lines were part of any adopted law or policy.

Principal Planner Marshall noted that PIPA's best management practices are not adopted or required by law, but were more or less a model ordinance an agency could use to develop local standards with respect to land uses near gas lines.

Commissioner Dawson: Indicated he had the same question as Commissioner Strauss regarding the alternative site substitutions. He had no further questions.

### **Public Comment**

Tom Langley: He asked the Planning Commission to rethink selecting AHO Site 3. He felt his comments on geology and soils were not addressed in FEIR. He questioned the references used for the geology and soils analysis. He noted better sites are available for housing.

Roberta Robinson: Raised concerns about aesthetics at Site 3 showing pictures of the Wincup project in Corte Madera and Whole Foods in Novato. She noted the area should be reserved for biotech uses. She indicated the development of AHO Site 3 would create aesthetic and traffic issues.

Michael Hooper: Reiterated the comments on the affordable unit requirements presented by Community Development Director Brown. He felt the EIR was perfectly adequate. He indicated it was time to move on and make a decision on the Housing Element.

Susan Wernick: Was pleased the City was able to reach a density level of 20-23 dwelling units. The negative consequences of not adopting the Housing Element are too great; it is time to move forward. She recommended approval of the FEIR and Housing Element.

John Elloway: Commented that he was a representative of the Seventh Day Adventist Church. He noted the Church owns its site. He claimed that substituting the Church site would be violation of the Religious Land Use and Institutionalized Persons Act. He asked to have the Church site removed from list of project alternatives.

Justin Coureas: Delivered a petition to the Planning Commission. He commented that affordable housing is not compatible with the area, referencing crime associated with a local business. He noted that residents were opposed to the AHO Site 4 and Alternate Site D. He stated that more housing is not needed in the Redwood corridor.

Jeanie Jacobson: Questioned the top-down state process for housing, noting its robbing local control. Novato needs to be kept safe and suburban. She supports approval of current Housing Element. The City needs to continue to plan for local growth based on real needs, not made up figures from ABAG.

Cindy Sundberg: Passed on her opportunity to speak.

Chris Thompson: Noted the City Council removed Alternative Site A from consideration. She opposes adding Alternative Site A.

Sylvia Barry: Referenced an earlier letter she sent to the Planning Commission regarding Alternative Site A. She indicated she was concerned about aesthetics. High density housing would not create a good impression of the neighborhood.

Hugh Trenkamp: Noted the number of market rate units at Atherton Ranch versus the number of surrounding affordable housing units. He indicated the City can't fit all of the affordable housing into the area and needs to spread the units out.

Robert Corsetti: Spoke regarding the AHO Site 2 near Clausung Avenue. He questioned the EIR's analysis of noise at AHO Site 2, including the ambient level of noise the site would be exposed to and the noise level created by operation of a project, including traffic, car doors slamming, air conditioners, and vacuum cleaners. He questioned the feasibility of the mitigation measures for noise.

John Christopher: Spoke regarding the AHO Site 2 near Clausing Avenue. He referenced the aesthetics analysis in the EIR, noting he just installed a solar system. Allowing up to 57 units just doesn't make sense. He noted the transition area for AHO Site 2 was listed at 0.61 acres, but the setbacks proposed are less than this area. He wanted the setbacks to reflect the transition area.

Clay Schulenburg: Spoke regarding AHO Site 2 near Clausing Avenue. He referenced the PG&E gas lines near AHO Site 2. EIR is not conclusive with respect to the hazards associated with the PG&E gas lines. Impact should be significant and unavoidable.

Dee Francisco: Spoke regarding AHO Site 2 near Clausing Avenue. She referenced a 1 x 50 non-access strip located at the south end of Clausing Avenue. She insisted the City has an obligation to respect the non-access strip. She disagreed with the EIR's findings relative to traffic, noise, and air quality. She wanted something in writing regarding retention of the non-access strip.

Emily Larson: Spoke regarding AHO Site 2 near Clausing Avenue. She stated the findings of the EIR relative to Air Quality at Site 2 are flawed. AHO Site 2 is located within 500-feet of U.S. 101, which represents a health risk hazard. She questioned the mitigation measures presented for air quality and noise.

Chris Beering: He opposed Substitution Option 1 presented in the staff report. He noted that accepting that option would over-concentrate the area near AHO Site 2 with affordable housing units. He does not want an over-concentration of affordable housing units.

Christina Corsetti: Spoke regarding AHO Site 2 near Clausing Avenue. She noted her opposition to site substitution option No. 1. She noted concerns about the proximity of AHO Site 2 to PG&E gas lines and U.S. 101 and questioned the EIR's findings on air quality, noise, and hazards. She claimed the mitigation measures for noise and air quality are not effective.

Eleanor Sluis: She stated that three minutes is not enough time to speak. Where will cars at the emergency shelters park? The setback at Landing Court is important. Landing Court site is within 500-feet of U.S. 101 and near PG&E gas line. Why not place housing at Fireman's Fund? There will be 3,000 homes at Black John site. The City will lose \$2-3 million in fees on new affordable housing units due to recent fee reductions. The Housing Element should be sent back for more work; don't given in to the state; need to retain local control and have all neighborhoods in agreement.

Robert Atkinson: Noted he wrote two letters regarding the EIR. Noted cumulative traffic at San Marin/Redwood would be LOS F. Noted there is only one way in and out for residents near AHO Site 3. He supports biotech business study being prepared by the City. Housing would be a constraint to development of biotech businesses. He was concerned about emergency response times with housing at AHO Site 3. He was concerned the state had not studied the alternative sites. Stated AHO Site 3 has all of the impacts. The process is being dismissed by staff and the City should get an extension

from the state.

Bertie Freeberg: Noted the FEIR contains her correspondence with Michael Hooper regarding the PG&E gas lines. She noted that PG&E would not be installing upgraded gas pipe valves until 2015 through 2018. She commented that PG&E is currently performing an external corrosion direct assessment on the gas lines at AHO Site 3. She indicated such an assessment is only conducted when corrosion has been identified. She referenced the wetlands at AHO Site 3 and the 50-foot setback required by the City. She claimed a project level EIR would show significant impacts at AHO Site 3. She encouraged the adoption of the best management practices recommended by PIPA and PMSA.

Clay Freeberg: Site selection process is disconnected from other planning efforts being conducted by the City and those of the Buck Center. He believes the question of additional homes on the balance of the 39.92 acre site surrounding Site 3 is inevitable. He referenced the City's biotech business study and noted that Novato only has 4% of its land area zoned for commercial uses. AHO Site 3 is good for a business use since users would have less exposure to the freeway. He stated the process to select AHO Site 3 was last minute, referencing an announcement by City Council member Athas. Planning Commission needs to select the best sites.

Evelyn Smith: She wants 495 San Marin Drive to stay as the Seventh Day Adventist Church. The site was purchased 40-years ago for use as a church and school. Novato has a lot of new affordable housing. Don't be bullied by the state.

David Wilner: Spoke regarding the alternative project site at 102 Ford Way. He opposes the substitution option that would add the Alternative Site E to the Housing Element. He claimed to have not received notices regarding the preparation of the EIR and the inclusion of Alternative Site E. He doesn't want the EIR certified since it could support housing development.

Marie Wilner: Spoke regarding the alternative project site at 102 Ford Way. She claimed to have never received notices regarding the preparation of the EIR and the inclusion of Alternative Site E. Other neighbors did not receive notice. She noted the southern portion of Redwood Boulevard is blighted by the existing mobile home park. She claimed EIR is of no value if neighbors provided no input. She requested the Planning Commission reject the EIR.

Mary Jeanne Stavish: She noted her home's location near AHO Site 3 and U.S. 101. She noted she can hear the freeway from her home and that the noise at AHO Site 3 would be worse. She asked that the Planning Commission reconsider AHO Site 3, otherwise mitigation measures need to be stringently enforced. She asked if we are being kind to future residents of AHO Site 3 given its location.

Trish Boorstein: She referenced a petition circulated by NCA that was signed by 700 residents regarding the early efforts to select housing sites. She recommended the Planning Commission approve the Housing Element. She wanted to ensure the 20 to 23-



dwelling unit per acre density range is retained for the next RHNA cycle and to involve all residents.

Kathy Socal: She expressed concern about parking at AHO Site 3. She noted that commuters and van pool participants currently park on Redwood Boulevard. Most housing residents will have two or more cars. Will parking saturate the nearby neighborhoods? Bus stops are not located close enough to AHO Site 3. She noted the PG&E gas lines near AHO Site 3. She stated that you can't put people too close to the gas lines.

Pam Drew: She is thankful the process is approaching the end. She supports the Housing Element. The City had some tremendous wins with respect to getting the state to support a density of 20- to 23-dwelling units per acre. The plan is good because it spreads housing throughout the community. She noted that City Council members Athas and MacLeamy recommended AHO Site 3. Selecting the alternative sites make the distribution of housing units bad and would concentrate units in two areas. The process will end in inequity if the alternate sites are substituted.

Joe Robinson: Since people have not received the EIR he recommended the matter be continued and redistribute the EIR.

### **Planning Commission Questions/Comments**

Commissioner Walker: Questioned how best management practices from PIPA and PMSA could be considered or incorporated into the Housing Element.

Senior Assistant City Attorney Nebb commented the Commission could forward a recommendation to the City Council. However, the matter of adopting best management practices for gas lines goes beyond the scope of Housing Element and has citywide effect with respect to land use, including existing development, and would require its own CEQA analysis. As such, the issue is probably best considered independent of the Housing Element. The Planning Commission could forward its request to the City Council, which could then consider placing the matter on its list of priorities.

Commissioner Strauss: He expressed concerns about the long and short term traffic implications of cumulative development at the San Marin/Redwood interchange. He noted the EIR identified cumulative scenario LOS F at the interchange and then included a wide range of existing traffic mitigations. He questioned when such improvements would be required and how funded.

Community Development Director Brown noted that future projects would be analyzed with respect to cumulative traffic conditions. He acknowledged there may come a point where a project can't go forward without installing the necessary traffic improvements.

Senior Assistant City Attorney Nebb commented that projects pay development impact fees, some of which is allocated to traffic improvements at the San Marin/Atherton Interchange. She noted the traffic fee represents a project's proportionate share of the

improvements necessary to maintain the level of service threshold. The timing of the need for the improvements may be such that a future project could have to include installation of the traffic mitigations, but its intended that money be available from past development to help fund the cost of the improvements.

Commissioner Tiernan: Raised a question regarding the concessions that could be requested by a developer under state density bonus law.

Community Development Director Brown clarified that the City is the decision authority with respect to concessions for a density bonus, and cited the three findings under state law that would justify denial of a requested concession.

Commissioner Butler had concerns about the effectiveness of the noise mitigations, in particular the measure addressing the design of new projects. He questioned whether other projects had similar mitigations and were they effective.

Principal Planner Marshall commented the mitigation measure for noise exposure involves having an acoustical consultant participate in the design of the project. The acoustical consultant would provide recommendations on the design of walls and windows, which might include better insulation or sound rated glass. He noted the Oma Village project uses a combination of building and sound wall shielding due to proximity to U.S. 101. The 801 State Access project is exposed to rail noise/horns and relies on mitigation measures similar to those for AHO Site 3. He also noted that 901 Sherman, the building within which the Planning Commission is holding the hearing, has sound attenuating construction features to address traffic noise. Vehicle noise is not heard within the meeting room. He finally reference the Whole Foods project as having sound attenuating construction that appears to be effective since the City has not received any noise complaints. He indicated post construction testing could be conducted by the acoustical consultant to assure the interior noise standards are met and direct changes if necessary.

Commissioner Dawson had no additional comments.

Chair Jordan had no additional comments.

Chair Jordan asked the Commission if it was ready to take action on the resolutions presented by staff.

### **Motions & Votes**

M/s Tiernan/Dawson (passed 5-0-0-0-1 (Butler recused)) to adopt resolution recommending the Novato City Council certify the Final Environmental Impact Report (SCH No. 2013032070) and adopt the Mitigation Monitoring and Reporting Program for the Novato Housing Element 2007- 2014, and related General Plan and Land Use Map amendments, and Downtown Novato Specific Plan and Land Use Figure amendments, Zoning Ordinance and Map amendments, and amendments to the Novato Industrial Park (Hamilton And Ignacio Industrial Park Areas) Master and Precise Development Plan.

M/s Tiernan/Strauss (passed 5-0-0-1 (Butler recused)) to adopt resolution recommending the City Council adopt an amendment to the Novato General Plan to incorporate the City of Novato Housing Element 2007-2014 and an amendment to the Novato General Plan Land Use Chapter to include an Affordable Housing Opportunity Combining Designation (AHO) and amending the General Plan Land Use Map (Lu Map 1) to assign the AHO Combining Designation to: 1) 1787 Grant Avenue; APN 141-201-12 & 48; 2) Landing Court; APN 153-162-59; 3) Redwood Boulevard; APN 125-202-18; 4) 7506 Redwood Boulevard; APN143-011-08; And 5) 1905 Novato Boulevard; APN 140-011-66.

M/s Tiernan/Dawson (passed 6-0) to adopt resolution recommending the City Council adopt an amendment to the Downtown Novato Specific Plan, Section 2.2.1, Land Use Classifications, and Land Use Map (Figure 3), to include an Affordable Housing Opportunity Combining Designation (AHO) and to assign the AHO Designation to 7506 Redwood Boulevard; APN 143-011-08.

M/s Tiernan/Dawson (passed 5-0-0-1 (Butler recused)) to adopt resolution recommending the City Council adopt an ordinance amending Chapter XIX of the Novato Municipal Code to establish an Affordable Housing Opportunity Overlay (AHO) District and amend parking regulations relating thereto, establish density bonus provisions, establish provisions and amend definitions for Emergency Shelters, and amend the Novato Zoning Map to apply the AHO District to (rezone): 1) 1787 Grant Avenue; APN 141-201-12 & 48; 2) Landing Court; APN 153-162-59; 3) Redwood Boulevard; APN 125-202-18; 4) 7506 Redwood Boulevard; APN 143-011-08; and 5) 1905 Novato Boulevard; APN 140-011-66.

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**NEW ITEMS:** None

**UPCOMING AGENDAS AND QUORUMS:**

Planning Manager Dunn described the upcoming meeting items for the Planning Commission.

**ADJOURNMENT:**

The meeting was adjourned at 9:45 p.m.