



**PLANNING COMMISSION STAFF REPORT**

MEETING

DATE: November 6, 2017

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SUBJECT: **ATHERTON PLACE  
CEQA MITIGATED NEGATIVE DECLARATION  
10702M - MASTER PLAN AMENDMENT  
- PRECISE DEVELOPMENT PLAN AMENDMENT  
- VESTING TENTATIVE SUBDIVISION MAP  
- VACATION OF PUBLIC DRAINAGE EASEMENT  
- DESIGN REVIEW  
APN 125-600-51 & -52; 7533 & 7537 REDWOOD BOULEVARD**

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**REQUESTED ACTION**

Conduct a public hearing to consider and adopt resolutions recommending the City Council approve a mitigated negative declaration, master plan amendment, precise development plan amendment, vesting tentative subdivision map, vacation of a public drainage easement, and design review for Atherton Place, a mixed-use project comprised of 50 townhome-style residential condominiums and 1,340 square-feet of retail space.

**EXECUTIVE SUMMARY**

Prado Group (“Applicant”) submitted applications to develop Atherton Place (“Project”), including requests to approve development entitlements to allow the construction and operation of a mixed-use project consisting of 50 townhome-style residential condominiums and 1,340 square-foot of retail space. The Project is proposed on a 3.6-acre parcel (“Project Site”) that is part of the Atherton Ranch Master Plan area (referred to as “Parcels C and D”).

The Applicant is requesting approval of two site plan options. The primary site design option includes the modification and improvement of an undeveloped private park easement held by the Atherton Ranch Home Owners’ Association. The alternative site design option eliminates all encroachments in and improvements to the private park easement and places an open rail fence at the boundary of the easement to delineate the limits of the outdoor space available to future residents of the Project. Implementation of the primary site plan is contingent upon agreement being reached between the Applicant and the Atherton Ranch Home Owners’ Association regarding private park easement. This matter is discussed in greater detail later in this report.

The Project's site design is based on twelve separate blocks of buildings oriented in a grid-like pattern around on-site parking, drive aisles, and outdoor spaces. The Project's floor area ratio (FAR) is 0.59. The proposed condominium buildings would range in height from 34- to 39-feet. Each residential unit has an attached two car garage and 42 to 45 on-site surface parking stalls are provided depending on which site plan option is implemented.

The Project's plans can be downloaded at: [www.novato.org/athertonplace](http://www.novato.org/athertonplace)

### *Background*

The Project's development applications were submitted to the Planning Division in March 2007 and deemed complete in September 2007. The Project did not advance in 2007 since the City was anticipating preparing a land use study for Redwood Boulevard between San Marin Drive and Olive Avenue. At that time, the Community Development Department and Applicant agreed to hold the Project in abeyance pending completion of the North Redwood Corridor Study. The North Redwood Corridor Study was coupled with the then effort to update the General Plan Housing Element for the planning period covering 2007 – 2014 and a more comprehensive update of the General Plan. The Housing Element update turned controversial, resulting in the North Redwood Corridor Study and General Plan update being deferred for several years. The North Redwood Corridor Study was completed in January 2014. The Project applications remained pending during this time period.

### *Development Entitlements*

The Project requires the following development entitlement approvals:

- *Master Plan Amendment*: Amend the existing Atherton Ranch Master Plan to replace references to the retail/office development previously approved on the Project Site with text reflecting the uses and development intensity proposed for the Project;
- *Precise Development Plan Amendment*: Amend the existing Atherton Ranch Precise Development Plan to replace language addressing the retail/office development previously approved on the Project Site with text reflecting the specific design of the Project, including building coverage, setbacks, height limit, parking requirements, accessory use and structure limitations, and other relevant site planning and development standard requirements;
- *Vesting Tentative Subdivision Map*: Merge the two existing parcels comprising the Project site into a single common interest parcel and creating air space rights for the 50 residential condominium units and a single commercial condominium space;
- *Vacate Public Drainage Easement*: Vacate an existing 10-foot wide public drainage easement crossing the Project Site's street frontage at Redwood Boulevard; and
- *Design Review*: Approve the Project's site design options, building height/massing, and landscape and architectural concepts.

### *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: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Noise, and Transportation/Traffic. 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/athertonplace](http://www.novato.org/athertonplace)

### *Neighborhood Meeting*

The Applicant hosted a neighborhood meeting with interested residents of Atherton Ranch on March 30, 2015. The neighborhood meeting was attended by approximately twenty residents. The attendees generally supported development of the project site with a mix of residential units and commercial space. However, residents made several consistent, critical comments and requests regarding the project:

- project is too dense; reduce number of residential units by one-third and double open space
- concern about the existing grade of the site and height relationship with existing residences
- on-site recreation areas are not sufficient; concern about future resident use of private park
- concern about increased traffic and difficulty making left turns into Atherton Ranch
- parking does not appear sufficient – may force parking into existing neighborhood
- desire for view corridors through the project to Redwood Boulevard

### *Design Review Commission Recommendation*

On July 8, 2015, the Design Review Commission (“DRC”) conducted a public workshop to review the site design, building massing/height, and architecture and landscape concepts proposed for the Project. The workshop was attended by approximately 20 members of the public, several of whom expressed concerns about development intensity, parking, outdoor use space, and building height. The DRC offered favorable comments on the basic layout of the project and suggested options to reduce building height and encouraged the Applicant to explore opportunities to increase parking and expand on-site outdoor space.

On August 3, 2016, the Design Review Commission conducted a public hearing to make a recommendation regarding the site design, building massing/height, and architectural and

landscape concepts based on revised plans prepared for the Project. The Design Review Commission was pleased with the revised Project design. Accordingly, the Design Review Commission recommended approval of the Project's design with the understanding the finer architecture and landscaping details of the development will be returned to the Commission for final review and approval. The conditions of approval recommended for the Project address this item.

The staff report and minutes of these meetings can be obtained at: [www.novato.org/athertonplace](http://www.novato.org/athertonplace)

*Staff Analysis & Recommendation*

The Project and its associated entitlement actions were reviewed in light of all applicable policies of the 1996 Novato General Plan, the design recommendations of the North Redwood Corridor Focus Area as presented in the draft 2035 Novato General Plan, and the findings of approval specified the Novato Municipal Code. In all instances, the Project, including both site plan options mentioned above, 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:	DC II, LLC
Applicant:	Prado Group
Assessor's Parcel No.	125-600-51 & -52
Property Size:	3.60 acres
General Plan Designation:	Mixed Use (MU); Maximum FAR of 0.80 if housing is mixed with a commercial use.
Current Zoning:	Planned District (PD); Atherton Ranch Master Plan
Existing Use:	Vacant; Approved for Office/Retail Development
Adjacent Land Use/Zoning/Uses:	
North-	Low Density Residential (R1)/Mixed Use (MU); Planned District (PD); Townhomes & Pinheiro House
South-	Mixed Use (MU); Planned District (PD); Nova-Ro III Senior Apartments

- East- General Commercial (CG)/Commercial Industrial (CI); Dairyman's Milling & Vacant Land
- West- Low Density Residential (R1)/Mixed Use (MU); Planned District (PD); Townhomes & Single Family Residences

## **SITE DESCRIPTION**

The Project is proposed on two parcels totaling 3.60 acres. These parcels are bounded by Ranch Drive to the north, Pinheiro Circle to the south, Redwood Boulevard to the east, and a private park owned by the Atherton Ranch HOA to the west. Adjacent development includes the Pinheiro House (2 Ranch Drive) and six townhomes on Ranch Drive, Nova-Ro III Senior Apartments (40 units) on Pinheiro Circle, and seventeen townhomes on the west side of Atherton Ranch's private park.

The Project Site hosts a prominent row of heritage size (trunk diameter of 24-inches or greater) oak trees along the south side of the Project Site adjacent to Pinheiro Circle. There is also a heritage size oak standing near the center of the Project Site.

The Project Site is subject to a number of existing easements within which various water, sewer, and drainage lines have been installed to serve other areas of Atherton Ranch and existing development further west along Carmel Drive. The Project Site is also subject to a park easement held by the Atherton Ranch HOA; this easement is undeveloped.

The Project Site does not have any significant slope or unique topographical features. However, the current topography of Project Site does not reflect the natural grade that existed in 2000 when the Atherton Ranch Master Plan was approved. The grade level of portions of the Project Site is artificially high due to soil that was stockpiled during construction of Atherton Ranch. This soil was anticipated to be removed Project Site, but was later spread over the portions of the site. The Applicant intends to remove the stockpiled soil.



## **PROJECT DESCRIPTION**

### **Building Program & Development Intensity**

The Project consists of the development of 50 townhome-style residential condominiums and 1,340 square-feet of commercial space. The condominium units would be contained in ten (10) three-story buildings and two (2) two-story buildings fronting Redwood Boulevard. The commercial space would be located at the south end of the building (Building 9) fronting Redwood Boulevard.

The retail space would be available for lease and could be occupied by a variety of commercial uses, including, but not limited to, a café, personal services (e.g., hairdresser, nail salon), and administrative offices.

Nine (9) residential condominium configurations are proposed:

- Plan 1 (7 Units) – 4 Bedroom/3.5 Bath @ 1,895 square feet
- Plan 2 (7 Units) – 3 Bedroom/3.5 Bath @ 2,003 square feet - Disabled Accessible
- Plan 3 (4 Units) – 3 Bedroom/3.5 Bath @ 1,899 square feet
- Plan 4 (9 Units) – 2 Bedroom/2.5 Bath plus Loft @ 1,521 square feet
- Plan 5 (2 Units) – 2 Bedroom/2.5 Bath plus Loft @ 1,601 square feet – Disabled Accessible
- Plan 6 (1 Unit) – 3 Bedroom/2 Bath @ 1,522 square feet
- Plan 7 (9 Units) – 3 Bedroom/3.5 Bath @ 1,921 square feet
- Plan 8 (3 Units) – 2 Bedroom/2.5 Bath plus Loft @ 1,655 square feet

## Plan 9 (8 Units) - 4 Bed/3.5 Bath @ 1,883 square feet

Total habitable residential floor area equates to 90,283 square-feet. When combined with the commercial space the Project has a total floor area of 92,163 square-feet, representing a floor area ratio (FAR) of approximately 59% versus a maximum allowable FAR of 80%. The figures above do not include garage space since it is not counted in FAR calculations. In this instance, FAR is used to address development intensity since the Project Site is zoned Mixed Use. For reference purposes only, the Project's residential density calculates to 13.9 units per acre.

### **Parking & Access**

#### *Primary Site Design – On-Site Parking*

The Project's primary site design provides a total of 145 on-site parking spaces, including 100 spaces in individual two-car garages and 45 surface parking spaces for resident, guest, and commercial customer parking distributed throughout the Project Site. The surface parking figure includes eight parking spaces for non-exclusive use by the nearby Nova-Ro III Senior Apartments as required by an existing parking easement applicable to the Project Site.

#### *Alternative Site Design – On-Site Parking*

The Project's alternative site design would provide a total of 143 on-site parking spaces, including 100 spaces in individual two-car garages and 43 surface parking spaces for resident, guest, and retail customer parking distributed throughout the Project Site. This 43 space figure includes the eight spaces shared with Nova-Ro III. Two spaces are lost under the alternative site plan to avoid encroachment into the private park easement held by the Atherton Ranch HOA.

#### *Off-Site Parking*

The Project includes formalizing (paint striping) parallel parking along Redwood Boulevard. Seventeen parallel parking stalls would be available at Redwood Boulevard. The Project includes widening Ranch Drive to provide parking bays accommodating six spaces along the south side of the street between Redwood Boulevard and Pinheiro Circle. These parking spaces do not count towards meeting the Project's on-site parking requirement. These on-street parking stalls would be available to any member of the public, including residents of Atherton Ranch.

#### *Garage Parking Design*

The garages proposed for the residential condominium units are designed to be slightly wider than a traditional garage to better accommodate the storage of individual trash cans without conflicting with the ability to park cars in the garage. In addition, the garages include overhead storage bays providing an additional storage option to avoid situations where stored personal items prevent vehicle parking.

Vehicle access to the Project would be taken via driveways connecting to Ranch Drive and Pinheiro Circle. No vehicle access would be available from Redwood Boulevard.

## **Outdoor Use Areas**

The Project includes a variety of outdoor use spaces. These spaces vary between the primary and alternative site design proposed for the Project as described below. For reference, Atherton Place abuts a private park (31,142 square feet) and undeveloped park easement (approximately 7,418 square-feet) held by the Atherton Ranch Homeowners' Association.

### *Primary Site Design*

The Project's primary site design provides 50,827 square-feet (1.16 acres) of outdoor use space, including:

- Ranch Drive Garden (between Bldgs. 2 & 3) - 4,172 sq. ft.
- Pinheiro Circle Garden (between Bldgs. 10 & 11) - 3,813 sq. ft.
- Atherton Village Green (between Bldgs. 9 & 4) - 3,911 sq. ft.
- The Promenade (between Bldgs. 5, 6, 7, & 8) – 6,326 sq. ft.
- The Park (between Bldgs. 1 & 12; Atherton Ranch park easement) – 20,888 sq. ft.
- Private Residential Patios – 11,717 sq. ft.

### *Alternative Site Design*

The Project's alternative site design provides 43,409 square-feet (.99 acres) of usable outdoor space, including all of the features listed above and excluding improvements within the Atherton Ranch's park easement (approximately 7,418 sq. ft.).

Both site design options include two children's play structures located in the Project's outdoor use area abutting Atherton Ranch's private park easement.

The figures above do not include the area surrounding the heritage oak trees along Pinheiro Circle. This area was previously shown to be improved with a walking path and natural outdoor play features. These improvements are no longer proposed based on the recommendation of a professional arborist given concerns about impacting the heritage oak trees.

## **Building Massing and Height**

The proposed condominiums are arranged in twelve separate blocks of buildings. The bulk of the condominium units feature two-levels of living space over garage (total 3-stories), with those units fronting Redwood Boulevard having ground level living/garage space and an upper floor (total 2-stories). Buildings range in height from 34-feet to 39-feet measured from grade to the highest roof ridge.



## **Architecture and Landscape Concepts**

The Project is proposed to be designed with a Craftsman architectural styling. The architectural concept differentiates the commercial/residential buildings from the individual condominium buildings by utilizing differing siding materials, including shingle, horizontal, and vertical wood for the residential units and stucco facades for the commercial space. Differing trim details and rooflines are also used to establish distinct, but related architecture between buildings.

The Project's landscape concept incorporates a variety of native and naturalized plant species, almost all of which require low water use. The landscape plan emphasizes tree plantings, featuring fourteen different evergreen and deciduous tree species dispersed throughout the site and along the Project's street frontages. The landscape plan also incorporates bio-retention features to filter stormwater runoff.

## **Subdivision Improvements**

The Project anticipates the creation of a single common parcel and delineation of airspace rights for the 50 proposed residential condominium units and single commercial condominium. The common parcel would be encumbered with easements and host infrastructure to provide all necessary utility services to the Project. Several existing on-site water, storm drain, and sanitary sewer lines would be removed, relocated, or extended to accommodate the Project. The subdivision improvements include stormwater pollution prevention features, such as bioretention areas and permeable paving.

## **Vacation of Public Drainage Easement**

The Project includes a request to vacate an existing 10-foot wide public drainage easement adjacent to Redwood Boulevard between Ranch Drive and Pinheiro Circle and relocate the existing 42-inch diameter drainage line located therein to the public right-of-way (under the sidewalk to be reconstructed at Redwood Boulevard). Vacating the easement results in the following:

- Allows the Project to install on-site bioretention features of a sufficient size and proper location to treat stormwater run-off from Buildings 4 and 9 as depicted on the VTM;
- Provides expanded patio and landscape space for the condominium units in Buildings 4 and 9;
- Permits development on the Project Site to shift closer to Redwood Boulevard allowing a greater setback from the private park at Atherton Ranch;
- Allows better maintenance access for heavy equipment and minimizes the potential for disturbance and/or damage to nearby residences during maintenance or replacement; and
- Avoids disputes over rights of entry that can occur when maintaining public improvements in easements encumbering privately owned land.

## **Affordable Housing**

The entitlement applications for Atherton Place were submitted to the City in March 2007. On September 26, 2007, the applications for Atherton Place were determined to be complete. This determination, as it relates to the vesting tentative map application, locked-in the standards applicable to Atherton Place to those in effect at the time the application was found complete. The “vesting” feature of a vesting tentative map is specified in the State Subdivision Map Act and is not a matter of local control, but state law. As a result, Atherton Place is subject to a version of Novato’s Affordable Housing Ordinance that was effective as of September 2007.

The version of the Affordable Housing Ordinance effective in September 2007 offered a project applicant the option of either choosing to provide affordable housing units or paying a fee in-lieu of constructing such units. In this instance, the Applicant has chosen to pay a fee in-lieu of providing affordable housing units in the project.

The in-lieu fee is based on City Council Resolution No. 120-03 and specifies an escalator calculation to ensure the fee keeps pace with inflation. Accordingly, if the Applicant were to pay the fee as of 2017, the fee amount would be \$15,034.00 per unit, equaling a total \$751,700.00 based on 50 condominium units.

In October 2007 the City Council adopted a new version of the Affordable Housing Ordinance. This version of the Ordinance does not offer an applicant the choice of paying an in-lieu fee instead of providing affordable housing units. Currently, an applicant may propose to pay an in-lieu fee and the City Council has the discretion to grant or deny the request.

When the City Council was considering updating the Affordable Housing Ordinance it was made aware of several residential project proposals that would be potentially affected by the then draft ordinance, one of which was the Project. The City Council decided to “grandfather” these projects leaving them subject to the Affordable Housing Ordinance effective in September 2007. This action is memorialized in Section 19.24.020.B.6. of the Novato Municipal Code, which states:

*“A land use application that has been accepted by the department [Community Development Department] as complete prior to October 9, 2007 shall be processed in accordance with the affordable housing requirements in effect when the application was determined complete.”*

The exemption above combined with the vesting mechanism accompanying the Project’s vesting tentative map do not allow the City to require the Applicant to provide affordable housing units in the Project.

The 2015-2023 Novato Housing Element identifies the Project Site in its inventory of available housing sites. The Housing Element does not anticipate the Project Site being developed with affordable housing units since the City identified other properties with sufficient development capacity to meet Novato’s regional housing needs allocation (RHNA) in the low and very low income categories.

## 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 master plan amendment, precise development plan amendment/design review, vesting tentative subdivision map, and easement vacation.

## 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: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Noise, and Transportation/Traffic. 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

<b>IMPACT</b>	<b>MITIGATION</b>
<b>Aesthetics:</b> The project could result in significant light and glare if specific lighting controls are not implemented.	Require Applicant to implement lighting controls, such as shielding, directing lights downward, and installing low-height pathway lights.
<b>Air Quality:</b> Dust emissions during construction could be potentially significant.	Require Applicant to implement best management practices for construction operations as recommended by the Bay Area Air Quality Management District.
<b>Air Quality:</b> Project construction activities would exceed the BAAQMD community risk threshold for toxic air contaminants (diesel exhaust).	Require the project contractor to utilize construction equipment with engines and exhaust systems that reduce diesel exhaust emissions.
<b>Biology:</b> Removal of trees and other vegetation during project construction may result in the inadvertent destruction of active bird nests.	Require Applicant to contract with biologist to perform pre-construction survey for nesting birds.
<b>Biology:</b> Removal and potential damage to regulated trees could conflict with the provisions in the Novato Municipal Code related to tree protection.	Require Applicant to contract with arborist to monitor construction work near heritage oak trees to prevent root damage. Implement a range of tree preservation guidelines.
<b>Cultural Resources:</b> The Project has the potential to cause a substantial adverse change in the significance of an archeological resource.	Require Applicant to contract with an archeologist to be present during grading and excavation activities.
<b>Cultural Resources:</b> Project construction has the potential to destroy a unique paleontological resource.	Work stoppage if suspected paleontological resource is encountered. If so, consult with qualified paleontologist for appropriate treatment of find.
<b>Cultural Resources:</b> Project construction has the potential to disturb human remains, including those interred outside of formal cemeteries.	Implement provisions of California Health and Safety Code, including contacting coroner for identification. If remains are that of a Native American contact will be

	made with most likely descendant for guidance on respectful treatment.
<b>Geology/Soils:</b> Development at the Project Site could expose people and structures to significant hazards as a result of seismic ground shaking.	Design and construct project according to California Building Code and recommendation of the Applicant's consulting geotechnical engineer.
<b>Noise:</b> Residential units along Redwood Boulevard would not meet the City's standard exterior noise levels at multi-family residential uses. Residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard would not meet the City's threshold for interior noise levels with standard construction methods.	Install 4-foot tall wall/or fence around patios serving the residential units facing Redwood Boulevard.  Retain a qualified acoustical consultant to review construction detail plans.  Utilize sound transmission class (STC) rated construction methods and materials. Provide air conditioning to allow occupants to control noise by keeping windows closed at their discretion.
<b>Noise:</b> Construction noise levels would represent a substantial temporary increase in ambient noise levels.	Require contractor to adhere to City's standard hours of construction, utilize appropriate mufflers on equipment, and provide sign with contact information to resolve noise complaints.
<b>Transportation:</b> The Project could result in an increased traffic hazard as it would require reducing a left-turn pocket to less than the minimum storage necessary.	Extend left-turn pocket on eastbound Ranch Drive to provide minimum of 50-feet of vehicle queuing capacity.

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.

**ATHERTON RANCH NEGOTIATIONS**

In November 2015 the Applicant attended a meeting of the Atherton Ranch Home Owners' Association ("Atherton Ranch HOA") to discuss neighborhood concerns about the Project. As a result of this meeting, four members of the Atherton Ranch Community volunteered to negotiate with the Applicant on behalf of the Atherton Ranch HOA to resolve various concerns about the Project, including:

1. The intensity of development of the Project;
2. The amount of on-site open space, in particular the outdoor use area proposed near the Atherton Ranch HOA's existing private park area;
3. The proximity of new residential units adjacent to the Atherton Ranch HOA's existing private park area and encroachment within the HOA's undeveloped park easement encumbering the Project Site;
4. The amount of parking within the Project;

5. Reciprocal use and shared maintenance costs of Atherton Ranch HOA's existing private park area and an adjoining private outdoor space to be developed with the Project.

Both parties met several times over early 2016. In addition, staff understands the subcommittee conducted their own meeting with residents of Atherton Ranch. These efforts were reported to have resulted in consensus regarding a revised site design for the Project as confirmed in a letter from the subcommittee to the Planning Division, dated May 16, 2016. A copy of this letter is attached (attachment No. 5) for Planning Commission reference.

In July 2016 Planning staff was informed that a group of Atherton Ranch home owners were disappointed with the outcome subcommittee's negotiation. As a result, Concerned Residents of Atherton Ranch ("Concerned Residents") was formed to address the Project. Wayne McIntosh, a resident of Atherton Ranch and representative of Concerned Residents, submitted a letter to the Planning Division, dated July 21, 2016, providing comments on the Project. A copy of this letter is attached (attachment No. 6) for Planning Commission reference. Key points of the letter are summarized below:

1. The proposed condominium units do not provide driveways offering additional on-site parking;
2. The Project's development intensity remains too high despite being reduced from 59 to 50 units - a development intensity of 40 units may be a better fit;
3. Expansion of the Project's on-site park space (adjacent Atherton Ranch's private park) was insufficient;
4. Two play structures should be provided in the Project to avoid future residents overwhelming the play equipment in Atherton Ranch's private park;
5. The Project should pay 100% of the annual maintenance costs of the Atherton Ranch HOA's private park;
6. Ranch Drive should be widened to allow parallel parking on both sides of the street;
7. The condominiums facing Atherton Ranch's private park should be of a Victorian architectural design similar to that of the existing townhomes in the neighborhood.

Also attached (attachment No. 7) is a petition collected by Concern Citizens.

The Applicant and Mr. McIntosh had discussions in 2016 about the issues raised by Concerned Citizens. As a result of these discussions, the Applicant made further modifications to the Project's site design by providing two children's play structures and widening Ranch Drive to accommodate additional parallel parking on the south side of the street. The Applicant also expressed a willingness to consider a different architectural style for the residential units facing the Atherton Ranch's private park.

The Applicant did not agree to revise the Project to meet the other requests of Concerned Citizens. Nevertheless, the Applicant advised staff it remained open to further discussions about the cost sharing arrangement for maintenance of Atherton Ranch's private park and adjustment of an undeveloped park easement held by the Atherton Ranch HOA. Reportedly, the Applicant had offered to cover a percentage of the private park maintenance costs and a one-time financial contribution to the HOA to fund upgrades to the private park. Staff was not party to these conversations and defers to the Applicant and Mr. McIntosh to provide details of their conversations if requested by the Planning Commission.

Despite the lack of agreement, the Applicant has made the following Project revisions in response to the requests of both negotiating groups representing the Atherton Ranch neighborhood:

1. Reduced the number of residential condominiums from 59 to 50 units;
2. Reconfigured the Project's site design to reduce the number of residential condominiums abutting the private park from 14 to 7 units;
3. Removed all residential condominium units previously shown to encroach upon the undeveloped park easement held by the Atherton Ranch HOA;
4. Provided a separation of approximately 20-feet between the closest exterior wall of the residential condominium units and undeveloped park easement;
5. Expanded an on-site outdoor use area abutting the undeveloped park easement and added two children's play structures therein;
6. Increased the level of on-site parking resulting in a three to five parking stall surplus depending upon implementation of the primary (five stall surplus) or alternative (three stall surplus) site design;
7. Increased on-street public parking along Ranch Drive from two to six stalls.

Staff is of the understanding the Atherton Ranch HOA board of directors is currently in a state of transition with the departure of several directors and a pending recall petition involving currently seated directors. Notably, Mr. McIntosh was appointed to the board and assumed a negotiating role on behalf of the HOA. Staff is aware the Applicant and Mr. McIntosh had continued dialogue about remaining issues involving Atherton Ranch's private park and undeveloped park easement. However, agreement could not be reached on these matters and it appears the involved parties have not had any recent discussions.

Mr. McIntosh has advised staff it is not possible for the HOA to agree to modify the boundaries of the private park easement without the consent of the lender for each residence in Atherton Ranch. Mr. McIntosh viewed this as being an insurmountable hurdle with respect to modifying the HOA's existing park easement to accommodate elements of the Project.

Given the lack of agreement on the remaining items noted above, the Applicant has proposed an alternative site plan for the Project that removes all improvements encroaching in the private park easement and places an open rail fence along the boundary of the easement. The Applicant has stated a preference to construct the primary site design and expressed a willingness to continue working with the Atherton Ranch HOA on sharing maintenance costs and adjustment of the private park easement, but indicated there is not unlimited time to reach agreement and cannot agree to what it views as unreasonable requests.

The Applicant desires the City to render a decision approving both the primary and alternative site designs. If agreement can be reached with the Atherton Ranch HOA on the remaining matters within a reasonable time frame then the Applicant would construct the Project according to the primary site plan; if no agreement is reached then the Applicant would implement the alternative site plan.

Staff encouraged the negotiations between the Atherton Ranch HOA and Applicant based on a desire to see both neighborhoods benefit from the Project in terms of reciprocal use of expanded outdoor use areas. While staff did not directly participate in the meetings between the Applicant and the various representatives of Atherton Ranch, staff has been in contact with the parties throughout the discussions. Based on conversations with those involved, staff is of the opinion all parties have negotiated in good faith, but have reached the limits of compromise.

The City in this instance has absolute discretionary authority for its land use decisions and is not bound to accept or otherwise support the positions of the Applicant or Atherton Ranch representatives with regard to the items above. In addition, the City must be mindful of the Applicant's rights to due process with respect to rendering a decision on the requested development entitlements and cannot impose conditions of approval or demand exactions that do not have a nexus to the Project and/or are not roughly proportional to the effects or service demands of the project. That said, the City cannot legally withhold processing the Project's entitlements pending agreement between the parties or impose conditions of approval requiring reciprocal use of park facilities or setting the terms of a cost sharing arrangement.

## **STAFF ANALYSIS**

### ***General Plan Consistency***

The Project Site is assigned the Mixed-Use (MU) land use designation of the 1996 Novato General Plan. The MU designation permits the combination of commercial uses (e.g., retail, offices, personal services) and residential units; housing development may only be permitted in conjunction with a qualifying commercial use.

As described earlier, the Project includes 50 residential condominiums with a cumulative floor area of 90,823 square-feet and a single commercial condominium space of 1,340 square-feet.

### ***Development Intensity***

The MU designation addresses development intensity via floor area ratio (FAR), which includes

habitable floor area and excludes garages. The maximum FAR for commercial development is 0.40 and up to 0.80 when housing is incorporated into a project. The MU designation does not specify a maximum or minimum ratio of commercial area to housing space.

The Project proposes a cumulative floor area of 92,163 square-feet. This intensity of development represents an FAR of 0.59 based on the Project Site's area of 3.60 acres. This FAR level falls under the maximum FAR of 0.80 available to mixed-use projects.

Although the amount of commercial floor area is minor in comparison to the amount of residential floor area, this commercial space nonetheless qualifies the Project Site for development with residential uses since the MU designation does not provide a minimum ratio of commercial area to housing space.

For reference purposes only, the Project's residential density calculates to 13.9 units per acre. This density level is comparable to the density level of the nearby Victorian townhomes at Atherton Ranch, which have a density of 14.8 units per acre. These density levels reflect the mid-range of a medium density multi-family residential project (typically 10 to 20 units per acre).

### *Commercial Uses*

The following land uses are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences. Any use proposing the service of alcohol for on- or off-site consumption would be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

The list of acceptable commercial uses is adapted from the list of office and retail land uses currently contained in the Atherton Ranch Master Plan. These uses are considered to be acceptable on parcels designated MU.

Each of the draft resolutions attached to this report contain an exhibit addressing the Project's consistency with applicable policies of the General Plan. Please refer to these exhibits for specific facts supporting the Project's consistency with the General Plan.

### ***North Redwood Corridor Study – Draft General Plan 2035***

In January 2014 the City completed the North Redwood Boulevard Corridor Study ("Study"). The Study involved an intensive public outreach and design charrette process to determine desired land use and design criteria to achieve coordinated, high quality, and pedestrian oriented redevelopment of the properties in the North Redwood Boulevard corridor. The Study was used by the City Council to



provide direction to staff regarding land uses, development intensities, and design standards to study as part of the City's ongoing 2035 General Plan update.

The City Council, based on the Study and public input, supported the following land use and design elements with respect to development of the Project Site:

- Allow for either residential development or for residential with ground floor commercial space.
- Residential units along the Redwood Boulevard frontage should have individual unit entries facing the street, such as individual rowhouses with balconies or stoops at the ground floor level unless commercial space is located on the ground floor.
- Incorporate a landscaped view corridor through the new development to the linear park behind.
- Housing units adjacent to the linear park should have unit entries facing the park.
- Minimize the visibility of parking from Redwood Boulevard and from existing housing which surrounds the site.
- New development should provide on-site outdoor areas.
- Estimated the likely near term development of the project site of up to 70 dwelling units.

The design criteria and development estimates contained in the Study have not been formally adopted as standards applicable to the North Redwood Corridor, but are nevertheless accepted to reflect the general community sentiment regarding future development of that area and more specifically the Project Site.

The Project falls within the residential unit count anticipated in the Study. In addition, the Project is considered to meet the design criteria described in the Study, including:

- The residences fronting Redwood Boulevard have entries and private patios facing the street;
- The Project site design provides a view corridor extending from the private park at Atherton Ranch (west) to Redwood Boulevard (east), including a pedestrian promenade of 34-feet to 42-feet in width between Buildings 5, 6, 7 and 8 and a plaza space of approximately 52-feet wide at Redwood Boulevard;
- The condominium units fronting the Atherton Ranch park have entries facing the park;
- Parking is provide in garages and surface parking stalls located behind Buildings 4 and 9; these parking stalls are not visible from Redwood Boulevard;
- On-site surface parking is largely screened from view of surrounding residences by the Project's proposed condominium units.

## ***Master Plan Amendment***

The Project is proposed on Parcels C and D of the Atherton Ranch Master Plan area (“Master Plan Area). The Atherton Ranch Master Plan, adopted in 2000, approved the development of Parcels C and D with a 70,550 sq. ft. office/retail complex and accompanying surface parking lot. Given this circumstance, the Atherton Ranch Master Plan must be amended to replace references to the commercial project approved in 2000 with text acknowledging the Project.

For reference, a master plan is adopted by ordinance and is intended to establish acceptable land use type(s) and intensity of development (floor area ratio or density) on properties zoned Planned District (PD).

All text describing commercial development on Parcels C and D (referenced as “Commercial Area”) of the Atherton Ranch Master Plan (City of Novato Ordinance No. 1435) is recommended to be replaced with the following text addressing the Project:

1. Atherton Place. Parcels C and D of the Atherton Ranch Master Plan shall be limited to development of 50 attached residential condominiums and a 1,340 square-foot commercial condominium space, representing a total floor area (FAR) of 0.59, as depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
2. Atherton Place – Residential Condominiums. The residential condominiums shall be used for residential dwelling purposes within which home occupations may be conducted consistent with Novato Municipal Code Section 19.34.080, as may be subsequently amended.
3. Atherton Place - Commercial Condominium. The following land use are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences.

Any use proposing the service of alcohol for on- or off-site consumption would be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

4. Residential accessory dwelling units and junior accessory dwelling units shall not be permitted.

Item No. 4 is included in the recommended master plan text since the Project is of a compact, in-fill residential design and cannot accommodate the construction of attached or detached accessory dwelling units meeting the requirements of the city's accessory dwelling unit ordinance. In addition, junior accessory dwelling units are limited to being developed on single-family residential properties where an existing single-family residence is already constructed. Although prohibited by standard code provisions in this instance, the proposed text is included to provide absolute clarity regarding the prohibition of accessory dwelling units and junior accessory units for benefit of future residents and ongoing administration of the Project by the Community Development Department.

The findings of Section 19.042.060E.3 of the Novato Municipal Code must be made to approve the proposed amendments to the Atherton Ranch 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 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.
3. The proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.
4. The proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and
5. 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 Atherton Ranch Master Plan and the Project's design have been reviewed in light of the required findings above. In all instances, the proposed amendments to the Master Plan, including the Project's proposed mix of land uses, development intensity, and design 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. 2.

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

The Project Site is subject to regulation by the Atherton Ranch Precise Development Plan. Similar to the Atherton Ranch Master Plan, the Precise Development currently acknowledges the development of Parcels C and D of the Master Plan area with an office/retail complex. Therefore, the approved Precise Development Plan text and graphics must be amended to replace references to the office/retail development with text and graphics representing the Project.

For reference, a precise development plan accompanies a master plan and is intended to address development standards, such as minimum setbacks, building heights, and required parking. A precise development plan consists of text statements describing development standards and graphics detailing the physical arrangement of development on a given project site. A precise development plan allows a project to be designed in a manner reflecting the characteristics and constraints of its site and surrounding context. Accordingly, a project requiring a precise development plan does not necessarily need to comply with the traditional development standards (e.g., setbacks, lot coverage, etc.) of the Novato Zoning Ordinance.

In this instance, the Project has been designed with attention given to the existing development standards contained in the Atherton Ranch Precise Development Plan, including maximum building height (40-feet) and minimum parking ratios for the commercial space and residential condominiums as noted below. However, the Project does have building setbacks that are less than those required of the Victorian townhomes at Atherton Ranch, which are subject to side setbacks ranging from 10- to 20-feet.

Buildings 2, 3, and 4 of the Project have end-units adjacent to Ranch Drive with side setbacks of 10-, 10-, and 5-feet respectively, as measured from property line to exterior porches. The setback of the exterior walls (living space) of these end-units are 15-, 15-, and 10-feet respectively. These particular setbacks are considered acceptable given the desire to avoid building encroachments into the heritage oak trees along Pinheiro Circle and the provision of a meaningful view corridor (pedestrian promenade) looking east to west through the Project, both of which have been achieved by shifting buildings north and closer to Ranch Drive. Overall, there is significant separation between the existing Victorian townhomes at Atherton Ranch and the condominium units in the Project.

The following text is recommended to replace all references to the “Commercial Area” currently listed in the Atherton Ranch Precise Development Plan (City of Novato Resolution No. 120-00):

#### Residential Condominiums

1. Maximum Number of Residential Condominiums: 50 Units

2. Unit Size Range: 1,521 to 2,033 square-feet

3. Minimum Parking Required:

2.0 spaces per two-bedroom unit;

2.2 spaces per three- and four-bedroom unit;

1.0 unassigned guest parking space for each three condominium units

8.0 parking spaces shared with shared with the Nova-Ro III Senior Apartments

Garages shall not be converted or modified in any manner that prevents the provision of two, ten (10) foot wide by twenty (20) foot deep parking stalls.

4. Accessory structures (e.g., shed, trellis, patio cover) shall not be permitted for individual

residential condominiums.

### Commercial Condominium

1. Maximum Number of Commercial Condominiums: 1 unit
2. Maximum Unit Size: 1,340 square-feet
3. Minimum On-Site Parking Required. One (1) parking space per 200 square-feet of floor area.

### Common Area Parcel

1. Common accessory structures (e.g., shed, trellis, patio cover) serving the Project may be located in common areas pursuant to Novato Municipal Code Section 19.34.032, as may be amended. Accessory structures shall be subject to the setback requirements specified for the Mixed Use (MU) Zoning District or as specified in Novato Municipal Code Section 19.34.032, as may be amended.
2. Accessory structures serving individual condominiums shall not be allowed in common areas.
3. Any fencing placed along the Project's boundary with the private park easement held by the Atherton Ranch Homeowners' Association shall be a maximum of four-feet high and of a split rail or other open picket design. If such fencing is installed, then signs shall be placed thereon indicating that access and use of the private park is for Atherton Ranch residents only.

### General Requirements

1. Minimum Parcel Size and Condominium Locations. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
2. Minimum Setback Requirements. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
3. Maximum Building Coverage: 40%
4. Maximum Building Height: 40-feet measured from finished grade.
5. Minimum Amount of Landscaping. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.

## Post Approval Procedures

The Project shall be subject to the post-approval and amendment procedures specified in Novato Municipal Code Sections 19.42.060.G. and H., as may be amended from time to time.

Many of the standards listed above have been taken directly from the existing Atherton Ranch Precise Development Plan as applied to the Victorian townhomes and formerly proposed office/retail buildings. In particular, the parking ratios and building height limit are taken from the Atherton Ranch Precise Development Plan. The balance of the provisions are tailored to the individual characteristics of the Project.

### *Parking*

With respect to parking, there has been concern raised that the Project's residential condominiums do not provide two-car driveway aprons as provided at the Victorian townhomes in Atherton Ranch. Notably, the Novato Zoning Ordinance does not require individual driveways for multi-family residential or mixed-use developments. Instead, paved drive aisles are required to connect to on-site parking, such as garages, carports, and/or surface parking stalls. A developer may voluntarily design a multi-family or mixed-use development with driveways capable of accommodating vehicle parking. In Novato there are existing condominium and townhome developments with full-size driveways, some with partial driveways, and others without driveways; most multi-family projects do not have driveway aprons providing additional parking.

Staff understands the desire for the Project to provide driveways offering additional parking. However, there is no specific design standard or other objective basis to require driveways for the proposed condominiums recognizing the project plans demonstrate compliance with the parking requirements of the Zoning Ordinance and Atherton Ranch Precise Development Plan. Accordingly, staff cannot recommend substantially modifying the Project to provide driveway aprons for each condominium unit. Instead, staff is recommending development standards and conditions of approval specifying that garages shall not be converted or modified in any manner that prevents the parking of two-vehicles. This requirement would be part of the Project's code, covenants, and restrictions (CC&Rs) and subject to enforcement by the Project's home owners' association. The future home owners' association would not be able to make any changes to this provision without City consent.

### *Outdoor Use Areas*

The text above addresses fencing at the boundary of Atherton Ranch's private park easement and signs addressing restricted use of the Atherton Ranch's private park. These provisions have been included to acknowledge concerns expressed by residents of Atherton Ranch regarding non-resident use of the neighborhood's private park. The fence and sign provisions would be applicable so long as the Applicant and Atherton Ranch HOA cannot reach agreement on reciprocal use of the private park at Atherton Ranch. If an agreement is reached in the future then those standards would not be necessary.

As described earlier, the Applicant is proposing two site plan options, one with and the other

without improvements within Atherton Ranch's private park easement. Staff is aware there is an impression the Project requires use of the private park easement and the developed area of Atherton Ranch's private park to provide code conforming open space. This is not the case.

As a PD zoned property, the Applicant has the option proposing outdoor use areas that may deviate from the standard requirements of the Novato Municipal Code. However, in this instance the Applicant is proposing to provide more on-site outdoor use space than otherwise required of multi-family project of a similar development intensity. Specifically, Novato Municipal Code Section 19.34.124 would require 400 square feet of outdoor use space per unit of a proposal similar to the Project. Accordingly, the Project would be required to provide a minimum of 20,000 square feet of outdoor use space. The Project without benefit of the private park or private park easement would provide 43,409 square feet of outdoor use space.

The findings of Section 19.042.060F.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, including the text described above and plans prepared for the Project, would meet the noted findings of approval. Based on the observations of the Design Review Commission and the findings of the CEQA IS/MND, the Project is considered to meet the findings required to amend the Atherton Ranch Precise Development Plan. The specific facts to support this perspective are provided in the resolution recommending approval of the precise development plan amendment/design review proposed for the Project presented as Attachment No. 3.

### ***Vesting Tentative Map***

As discussed earlier, the applicant has requested the approval of a VTM to subdivide the Project Site into a single common parcel with air space rights for 50 residential condominium units and one commercial condominium. The VTM describes the infrastructure and public utilities/easements required to serve the Project

In accordance with Section 9-7.002 e.2., the following findings must be made to approve a VTM:

- a) The proposed subdivision, together with the provisions for its design and improvement is consistent with the Novato General Plan and any specific plans.
- b) The proposal is consistent with the Zoning Ordinance and any master plan or precise development plan adopted pursuant thereto.
- c) The effect of the approval on the housing needs of the region has been considered and balanced against the public service needs of the residents of Novato and available fiscal and environmental resources.
- d) The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision.

The VTM for the Project has been reviewed by the Novato Public Works Department pursuant to Chapter 5, *Development Standards*, and Chapter 9, *Land Subdivision*, of the Novato Municipal Code relating to: drainage, streets design, driveways, grading, pedestrian circulation, solid waste disposal, street lighting, and common utilities. A similar review was performed by the Novato Fire Protection District, North Marin Water District and Novato Sanitary District. In all instances the Project's design, as represented by the VTM, was found to comply with the development standards of the Novato Municipal Code and is recommending conditions of approval relating the construction detail design of the subdivision improvements for the Project. Similarly, the noted special service districts confirmed their ability to serve the Project and requested, as necessary, conditions of approval related to the construction detail design of the Project.



Based on the observations above, the Project's VTM is considered to be consistent with the findings necessary to approve a tentative map. Additional facts supporting this position are provided in the resolution recommending approval of the Project's VTM presented as attachment No. 4.

The attached VTM resolution includes a lengthy list of conditions of approval related to the construction detail design of the subdivision improvements for the Project. Additionally, there are conditions of approval related to the establishment of a home owners' association and creation of covenants, conditions, and restrictions (CC&Rs) to manage the Project. This requirement is uniformly imposed by the city on common interest developments. However, in this instance staff is recommending several specific items be addressed in the CC&Rs. The recommended condition, provided below, is based on the design characteristics of the Project and addresses concerns expressed by residents of Atherton Ranch regarding parking and the conversion of garages to non-parking uses.

Recommended VTM condition of approval No. 5 reads:

5. The applicant, or any successor in interest to the Project, shall prepare Codes, Covenants, and Restrictions (CC&R's) addressing the following:
  - a. Provisions for maintenance of structures with common walls and roofs.
  - b. Provisions restricting accessory and junior accessory dwelling units, residential accessory structures, or additions to the residential condominiums in the Project.
  - c. Creation of a parking management and enforcement program to ensure the availability of on-site parking for residents and guests, including provisions limiting the use of garages to the parking of vehicles.
  - d. The City shall be noted as a third-party beneficiary to the CC&Rs, providing the right, but not the obligation, to enforce the CC&Rs or select provisions thereof.
  - e. The CC&Rs shall note those sections of the CC&Rs requiring City consent to rescind or amend, including, but not limited to, measures addressing parking management and enforcement.
  - f. The requirement for professional property management for a minimum of 2 years.

The CC&Rs shall be submitted to the to the City Engineer, Community Development Director, and City Attorney for review and approval prior to recordation.

### ***Drainage Easement Vacation***

The Project's VTM describes the vacation of an existing 10-foot wide public drainage easement located along the Project Site's frontage at Redwood Boulevard. This easement currently contains a 42-inch drainage line that collects stormwater from the Carmel Drive area and Atherton Ranch.

The Applicant is requesting the City vacate the public drainage easement and allow the drainage line to be moved to the public right-of-way along Redwood Boulevard. This alteration would:

- Allow the Project to install on-site bioretention features of a sufficient size and proper location to treat stormwater run-off from Buildings 4 and 9 as depicted on the VTM;
- Provide expanded patio and landscape space for the condominium units in Buildings 4 and 9 resulting in a more attractive streetscape at Redwood Boulevard;
- Permit development on the Project Site to shift closer to Redwood Boulevard offering a more generous setback from the existing private park at Atherton Ranch;
- Allow better maintenance access for heavy equipment and minimize the potential for disturbance and/or damage to nearby residences during maintenance or replacement; and
- Avoid disputes over rights of entry that can occur when maintaining public improvements in easements encumbering privately owned land.

There are no specific findings established to vacate a public drainage easement other than confirming consistency with the General Plan. In this instance, vacating the public drainage easement and moving the drainage pipe therein to the public right-of-way is considered to be consistent with the General Plan based on the benefits listed above and the fact the drainage pipe can be replaced in-kind and continue to serve the drainage needs of Atherton Ranch and the neighborhood along Carmel Drive.

### ***Design Review***

Design Review is required of new development proposals on lands zoned Planned District (PD). Accordingly, the Project has been reviewed by the DRC, first at a public workshop and then subsequently at a public hearing, to make a formal recommendation to the Planning Commission and City Council regarding the project. The intent of the DRC's review and recommendation is to assist the Planning Commission and City Council's consideration of whether the project is compatible with the Project Site and surrounding area.

Section 19.42.030.F. of the Novato Municipal Code specifies the following findings for Design Review applications:

1. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines and all applicable provisions of this code, including this title and any approved master plan and precise development plan.
2. Design Review Finding No. 2: The proposed 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.

3. Design Review Finding No. 3: The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.

The Design Review Commission recommend approval of the Project's design, based on the findings above and with the understanding the finer architectural and landscape details of the Project would be returned to the Commission for final review and approval.

Based on the recommendation of the Design Review Commission, the Project is considered to meet the findings required for Design Review. The specific facts supporting this position are provided in the resolution recommending approval of the Project's Precise Development Plan. The Precise Development Plan resolution includes a condition of approval requiring the Project to return to the DRC for a final review and action on architectural and landscaping details.

### **COMMISSION ALTERNATIVES**

1. Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested Master Plan amendment, Precise Development Plan amendment/Design Review, and Vesting Tentative Subdivision Map for the Project by adoption of the attached resolutions and provide a report finding the proposed vacation of a public drainage easement to be consistent with the Novato General Plan;
2. Modify any of the proposed resolutions and recommend adoption of a Mitigated Negative Declaration and approval of the requested Master Plan amendment, Precise Development Plan amendment/Design Review, and Vesting Tentative Subdivision Map for the Project and provide a report finding the proposed vacation of a public drainage easement to be consistent with the Novato General Plan;
3. Recommend additional environmental review be completed prior to making a recommendation to the City Council regarding the requested Master Plan amendment, Precise Development Plan amendment/Design Review, and Vesting Tentative Subdivision Map for the Project;
4. Recommend the City Council not adopt a Mitigated Negative Declaration and deny the requested Master Plan amendment, Precise Development Plan amendment/Design Review, and Vesting Tentative Subdivision Map for the Project provide a report finding the proposed vacation of a public drainage easement to be inconsistent with the Novato General Plan;
5. Continue the public hearing with direction to staff.

## **RECOMMENDATION**

Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested Master Plan amendment, Precise Development Plan amendment/Design Review, and Vesting Tentative Subdivision Map for the Project by adoption of the attached resolutions and provide a report finding the proposed vacation of a public drainage easement to be consistent with the Novato General Plan;

## **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 - Master Plan Amendment
3. Resolution - Precise Development Plan Amendment/Design Review
4. Resolution - Vesting Tentative Subdivision Map/Vacation of Public Drainage Easement
5. Correspondence, Atherton Ranch Subcommittee, May 5, 2016
6. Correspondence, Concerned Citizens of Atherton Ranch, August 1, 2016
7. Petition, Concerned Citizens of Atherton Ranch, August 3, 2016
8. Public Correspondence - Consolidated

## **DOCUMENTS AVAILABLE FOR DIGITAL DOWNLOAD**

The following Project documents are available for download at: [www.novato.org/athertonplace](http://www.novato.org/athertonplace)

1. Design Review Commission Minutes of August 3, 2016
2. Design Review Commission Staff Report of August 3, 2016
3. Design Review Commission Minutes of July 8, 2015
4. Design Review Commission Staff Report of July 8, 2015
5. Atherton Place - CEQA Initial Study/Mitigated Negative Declaration
6. Atherton Place Plans – September 15, 2017

PLANNING COMMISSION RESOLUTION

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

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION FOR ATHERTON PLACE (10702M) A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNs 125-600-51 AND -52, INVOLVING A MASTER PLAN AMENDMENT, PRECISE DEVELOPMENT PLAN AMENDMENT/DESIGN REVIEW, VESTING TENTATIVE SUBDIVISION MAP, AND VACATION OF PUBLIC DRAINAGE EASEMENT

WHEREAS, the City of Novato ("City") received applications for a master plan amendment, precise development plan amendment/design review, vesting tentative subdivision map, and vacation of a public drainage easement to permit the construction and operation of Atherton Place ("Project"), a mixed-use development project featuring 50 townhome-style residential condominiums and 1,340 square-feet of commercial floor area, located at 7533 and 7537 Redwood Boulevard (collectively "Project Site"), APNs 125-600- 52 and -53; and

WHEREAS, the master plan amendment application requests the City amend the Atherton Ranch Master Plan to allow the land use types and intensity of development proposed for Atherton Place; and

WHEREAS, the precise development plan amendment application requests the City amend the Atherton Ranch Precise Development Plan to incorporate the Project's design plans and accompanying text addressing the design and operation of the Project; and

WHEREAS, the vesting tentative subdivision map application requests the City approve subdivision of the 3.60 acre Project Site into a single common interest parcel and creating air space rights for the 50 proposed residential condominium units and single commercial condominium space; and

WHEREAS, the Project includes a request to vacate an existing public drainage easement and relocation of the drainage pipe therein to the public right-of-way along Redwood Boulevard between Ranch Drive and Pinheiro Circle; and

WHEREAS, on March 30, 2015, the applicant, Prado Group, conducted a neighborhood meeting to present the Project to nearby residents and answer questions regarding the proposal; and

WHEREAS, on July 8, 2015, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, building height/massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on August 3, 2016, the Novato Design Review Commission conducted a publicly noticed hearing to consider providing a recommendation to the Planning Commission and City Council regarding the Project's site design, building height/massing, and conceptual architecture and landscaping to assist the Planning Commission and City Council in considering whether the Project is compatible with the Project Site and its surroundings; and

WHEREAS, on March 16, 2016, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, building height/massing, and conceptual architecture and landscaping recognizing the Project's well resolved site plan, appropriate mass/scale, and generally acceptable architecture and landscape concepts. This recommendation was based on the findings required to approve design review applications, including observations that the Project would be compatible with the characteristics of the Project Site and surrounding area, and maintains consistency with the design related policies and programs of the Novato General 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, 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 Site 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 (Master Plan Amendment, Precise Development Plan Amendment, Vesting Tentative Subdivision Map, Vacation of Public Drainage Easement, and Design Review) could result in potentially significant impacts to the environment in the CEQA topical areas of Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Noise, and Transportation/Traffic. 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 October 18, 2017, and ending on November 6, 2017, and the Planning Commission's hearing thereon were sent to all affected property owners within 1,000-feet of the boundaries of

the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, 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 October 17, 2017; and

WHEREAS, the Planning Commission held a public hearing on November 6, 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 Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) 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 (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (5) the 1999 Atherton Ranch EIR and Final EIR, (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 September 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 September 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 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 \_\_\_\_\_, 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 \_\_\_\_\_.

\_\_\_\_\_  
Chair

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

## EXHIBIT A

### ATHERTON PLACE 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 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. Aesthetic Impact:** The project could result in significant light and glare if specific lighting controls are not implemented (IS/MND p. 13 – 17).

**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 light and glare by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure VISUAL-1.

**Facts in Support of Finding:** Mitigation Measure VISUAL-1 has been proposed in the IS/MND to reduce the possibility of excessive light and/or glare due to operation of the Project. Mitigation Measure VISUAL-1 requires the following:

- All lighting shall be shielded so that lighting is cast downward and “spillover” is minimized.
- Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.
- Whenever possible, lighting for pathways shall be low path lighting.
- All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.

- Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.

**B. Air Quality Impact:** Fugitive dust emissions during project construction could be potentially significant unless adequately controlled (IS/MND p. 19 - 33).

**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. 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 haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
5. 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.
6. 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 California Code of Regulations [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.

7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. A publicly visible sign shall be posted listing the telephone number and person to contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.

**C. Air Quality Impact:** Excess cancer risk from project construction activities would exceed the BAAQMD community risk threshold unless properly controlled (IS/MND p. 19 - 33).

**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 toxic air contaminants (diesel exhaust) during construction of the Project by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure AIR-2.

**Facts in Support of Finding:** Mitigation Measure AIR-2 has been proposed in the IS/MND to reduce toxic air contaminants resulting from the operation of diesel powered equipment during construction of the Project. Mitigation Measure AIR-2 requires the developer to implement Mitigation Measure AIR-1 and also ensure that construction equipment is selected to minimize exhaust emissions, such as operating diesel-powered off-road equipment meeting U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent and/or the use of California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel).

**D. Biological Impact:** Removal of trees and other vegetation during project construction may result in the inadvertent destruction of active bird nests unless appropriate precautions are followed (IS/MND p. 33 - 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 disturbance of nesting birds by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure BIOLOGY-1.

**Facts in Support of Finding:** Mitigation Measure BIOLOGY-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 BIOLOGY-1 requires pre-construction surveys for nesting birds no more than 7-days prior to the commencement of grading or vegetation removal. Mitigation Measure BIOLOGY-1 provides specific steps to be followed in the event nesting birds are located, including consultation with the California Department of Fish and Wildlife and the establishment of appropriate buffer areas within which construction work would not be permitted until young birds have fledged.

- E. Biological Impact:** Removal and potential damage to regulated trees could conflict with the provisions in the Novato Municipal Code related to tree protection unless appropriate precautions are followed (IS/MND p. 33 - 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 potential damage to regulated trees by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure BIOLOGY-2.

**Facts in Support of Finding:** Mitigation Measure BIOLOGY-2 has been proposed in the Mitigated Negative Declaration/Initial to reduce and/or avoid the Project's potential to damage regulated trees (e.g., heritage tree) during construction of the Project. Mitigation Measure BIOLOGY-2 requires a variety of steps to prevent damage to regulated trees, including, but not limited to: a) defining a tree protection zone for each regulated tree (typically 18- to 20-feet in all directions from tree trunk); b) supervision of work by a consulting arborist; and c) the use of permeable pavers where paved features must encroach into the tree protection zone.

- F. Cultural Resources Impact:** The Project has the potential to cause a substantial adverse change in the significance of an archeological resource (IS/MND p. 45 - 51)

**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 Measure identified in the IS/MND as Mitigation Measure CULTURAL-1a and CULTURAL-1b.

**Facts in Support of Finding:** Mitigation Measures CULTURAL-1a and CULTURAL-1b have been proposed in the IS/MND to ensure the protection of unknown, buried cultural resources. Mitigation Measure CUTLURAL-1a requires the applicant to retain a qualified archeological consultant to develop and implement an archeological monitoring program to ensure any archeological resources uncovered during site preparation and construction are identified and appropriately treated. Mitigation Measure CULTURAL-1b requires all work to be

stopped within 50-feet of a suspected archeological resource and review of any such a find by a qualified archeologist.

- D. Cultural Resources Impact:** Project construction has the potential to destroy a unique paleontological resource (IS/MND p. 45 - 51)

**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 unanticipated disturbance of paleontological (fossil) resources by implementation of the Mitigation Measure identified in the IS/MND as Mitigation Measure CULTURAL-2.

**Facts in Support of Finding:** Mitigation Measure CULTURAL-2 has been proposed in the IS/MND to ensure the protection of paleontological resources. Mitigation Measure CULTURAL-2 stipulates that if a suspected fossil is encountered, 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, a treatment plan shall be developed by a qualified paleontologist.

- E. Cultural Resources Impact:** Project construction has the potential to disturb human remains, including those interred outside of formal cemeteries (IS/MND p. 45 - 51).

**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 possible disturbance of unknown human remains by implementation of the mitigation measure identified in the IS/MND as Mitigation Measure CULTURAL-3.

**Facts in Support of Finding:** Mitigation Measure CULTURAL-3 has been proposed in the IS/MND to ensure the protection of unknown, buried human remains. Mitigation Measure CULTURAL-3 requires compliance with the uniform procedures of Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code. The cited code sections specify the procedures that shall be implemented should buried human remains be encountered during project construction, including notifying the county coroner within 24-hours of discovery and contacting the Native American Heritage Commission should the remains be determined to be Native American. The most likely decedent of a deceased Native American or their representative shall then determine, in consultation with the property owner, treatment of the human remains.

- F. Geology/Soils Impact:** Development at the project site could expose people and structures to significant hazards as a result of seismic ground shaking (IS/MND p. 51 - 56).

**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 strong seismic ground shaking by implementation of Mitigation Measure GEOLOGY-1.

**Facts in Support of Finding:** Mitigation Measure GEOLOGY-1 has been proposed in the IS/MND to reduce the risk of loss, injury, or death related to strong seismic ground shaking. Mitigation Measure GEOLOGY-1 requires the Project to be designed and constructed in accordance with the California Building Code and recommendations of the Project's design-level geotechnical report, addressing such items as over-excavation of weak soils, the placement and compaction of engineered fill soils, and foundation and drainage system design.

- G. Noise Impact:** Residential units along Redwood Boulevard would not meet the City's standard of 65 dBA  $L_{dn}$  for exterior noise levels at multi-family residential uses. Also, residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard would not meet the City of Novato's standard of 45 dBA  $L_{dn}$  for interior noise levels with standard construction methods (IS/MND p. 74 - 96).

**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 exterior and interior noise levels at those units in the Project facing Redwood Boulevard.

**Facts in Support of Finding:** Mitigation Measure NOISE-1 has been proposed in the IS/MND to avoid potential exterior and interior noise impacts. In particular, Mitigation Measure NOISE-1 requires a 4-foot high solid noise barrier (fence) to reduce exterior noise in the private patios of Buildings 4 and 9 to an acceptable level. In addition, Mitigation Measure NOISE-1 requires a qualified acoustical consultant to review the final site plan, building elevations, and floor plans prior to construction to recommend building treatments to reduce interior noise levels to 45 dBA  $L_{dn}$ . Such treatments may include sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Mitigation Measure NOISE-1 requires a forced-air mechanical ventilation system (air conditioning) for Buildings 4 and 9 so that windows may be kept closed at the occupant's discretion to control interior noise.

- K. Noise Impact:** Construction noise levels would represent a substantial temporary increase in ambient noise levels (IS/MND p. 74 - 96).

**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 a



temporary increase in ambient noise due to construction by implementation of Mitigation Measure NOISE-2.

**Facts in Support of Finding:** Mitigation Measure NOISE-2 has been proposed in the IS/MND to minimize construction related noise. Mitigation Measure NOISE-2 requires the implementation of a variety of procedures to minimize noise, including:

- Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.
- All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- “Quiet” air compressors and other stationary noise sources shall be used where technology exists.
- Noise from construction workers’ radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
- The developer shall issue a written notice to all businesses, residences, and other noise sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
- In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.”

- A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

**H. Transportation Impact:** The project could result in an increased traffic hazard as it would require reducing a left-turn pocket to less than the minimum storage necessary. Inadequate storage would remain in the left-turn pocket on Ranch Drive at Redwood Boulevard if striping were to be modified to relocate the left-turn pocket into the project site from westbound Ranch Drive to match the proposed driveway location (IS/MND p. 104 - 114).

**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 inadequate vehicle storage capacity by implementation of Mitigation Measure TRANS-1.

**Facts in Support of Finding:** Mitigation Measure TRANS-1 has been proposed in the IS/MND to avoid the potentially significant impact created by inadequate vehicle storage capacity. Mitigation Measure TRANS-1 requires restriping of Ranch Drive to eliminate the existing westbound left-turn pocket and extend the eastbound left-turn pocket to provide a minimum 50-feet of vehicle storage capacity.

**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
<b>AESTHETICS</b>						
<p><u>VISUAL-1</u>: The applicant shall incorporate the following specifications into the proposed project:</p> <ul style="list-style-type: none"> <li>▪ All lighting shall be shielded so that lighting is cast downward and “spillover” is minimized.</li> <li>▪ Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.</li> <li>▪ Whenever possible, lighting for pathways shall be low path lighting.</li> <li>▪ All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.</li> <li>▪ Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.</li> </ul> <p>The combination of the above measures would reduce the potential light and glare impact to a less-than-significant level.</p>	Developer	City of Novato Community Development Department	At time of Design Review			
<b>AIR QUALITY</b>						
<p><u>AIR-1</u>: During any construction-period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD) and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:</p> <ol style="list-style-type: none"> <li>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.</li> <li>2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> </ol>	Developer and Contractor	City of Novato Community Development & Public Works Departments	During construction			

**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
3. 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.						
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).						
5. 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.						
6. 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 California Code of Regulations [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.						
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.						
8. A publicly visible sign shall be posted listing the telephone number and person to contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.						
<u>AIR-2</u> : The applicant shall implement Mitigation Measure AIR-1 and shall also ensure that construction equipment is selected to minimize emissions. Such equipment selection shall include the following: <ul style="list-style-type: none"> <li>▪ All diesel-powered off-road equipment operating on the site for more than 2 days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction-period</li> </ul>	See AIR-1	See AIR-1	See AIR-1			

**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
diesel particulate matter (DPM) emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement.						
<b>BIOLOGICAL RESOURCES</b>						
<b>BIOLOGY-1:</b> Any active bird nests in the vicinity of proposed vegetation removal and grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling grading and vegetation removal during the non-nesting period (September through February), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present, or that nesting has been completed as detailed below, shall be submitted to the City of Novato for review and approval prior to initiation of grading or vegetation removal during the nesting season. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following: <ul style="list-style-type: none"> <li>▪ If initial grubbing and grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of grading or vegetation removal to provide confirmation on presence or absence of active nests in the vicinity.</li> <li>▪ If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the California Department of Fish and Wildlife (CDFW) and implemented to prevent nest abandonment. At a minimum, vegetation removal and grading in the vicinity of the nest shall be deferred until the young birds have fledged. A nest setback zone of at least 100 feet for raptors and 50 feet for loggerhead shrike and passerine birds shall be established, and all construction-related disturbances shall be prohibited within the nest setback zone. The perimeter of the nest</li> </ul>	Developer and Contractor	City of Novato Community Development Department	Prior to site disturbance			

**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
<p>setback zone shall be fenced or adequately demarcated and construction personnel restricted from the area.</p> <ul style="list-style-type: none"> <li>▪ If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest setback zone until a qualified biologist verifies either that a) the birds have not begun egg-laying and incubation, or b) the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.</li> <li>▪ A survey report of findings verifying that any young have fledged shall be submitted for review and approval by the City of Novato prior to initiation of grading or vegetation removal in the nest setback zone. Following approval by the City of Novato, grading, vegetation removal, and construction in the nest setback zone may proceed as proposed.</li> </ul> <p>Implementation of Mitigation Measure BIO-1 would reduce potentially significant impacts on nesting birds to a less-than-significant level.</p>						
<p><u>BIOLOGY-2:</u> The project shall comply with Chapter XVII of the Novato Municipal Code. Compliance with the Municipal Code shall be achieved through adherence with the following provisions:</p> <ul style="list-style-type: none"> <li>▪ Tree Preservation Guidelines contained in the Arborist Report (HortScience, 2016) shall be implemented to ensure adequate protection of trees to be preserved. This shall include adherence to specified design recommendations, pre-construction treatments and recommendations, and recommendations for tree protection during construction, and the project site plan and other improvement plans shall be revised to reflect minimum design recommendations. Design recommendations include relocating driveways, walking paths, landscape features, and careful controls on any facilities that would require excavation at least 20 feet from the trunk of Trees #168 to #178 and 18 feet from the trunk of Tree #167.</li> <li>▪ A Tree Protection Zone (TPZ), defining the limits of construction activity required for successful tree preservation, shall be established</li> </ul>	Developer and Contractor	City of Novato Community Development & Public Works Departments	During final design and during construction			

**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
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<p>around all trees to be retained. Specific features shall include the following:</p> <ul style="list-style-type: none"> <li>• For Trees #168 to #178, the TPZ shall be 20 feet in all directions.</li> <li>• For Tree #167, the TPZ shall be 18 feet in the area of the west vehicle access and 20 feet in other areas surrounding the tree.</li> <li>• For Trees #155 to #166 and #187, the TPZ shall be established in two phases:               <ul style="list-style-type: none"> <li>– During demolition, grading, and building construction, the TPZ shall be 10 feet in all directions. A continuous fence 10 feet from the tree trunks may also be used to separate construction on the site from these trees.</li> <li>– During installation of the sidewalk, tree protection fencing shall be placed no closer than 2 feet from the trunk.</li> </ul> </li> <li>▪ Temporary construction fencing shall remain in place around the TPZ for the duration of construction. Fencing shall not be moved unless under supervision of the consulting arborist, and no grading, excavation, construction, or storage of materials shall occur within that zone.</li> <li>▪ Irrigation systems shall be designed so that no trenching severs roots larger than 1 inch in diameter within the TPZ.</li> <li>▪ Landscape treatment within the TPZ for Trees #167 to #178 shall be compatible with the requirements of native oak. No irrigation system shall be installed within the tree driplines.</li> <li>▪ The two parking stalls and pedestrian path proposed within the TPZ for Trees #176 and #177 shall be designed and installed to minimize any damage to the tree root zone of these trees. The parking stalls and path shall preferably be designed using decomposed granite or some other permeable paving, and the design shall be reviewed and approved by the consulting arborist. Special construction techniques such as advanced hand digging to determine root locations, controlled root-cutting, and other methods to limit damage to the</li> </ul>						

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ATHERTON PLACE**

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
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<p>trees, and all work performed within the TPZ, shall be monitored by the consulting arborist.</p> <ul style="list-style-type: none"> <li>▪ Underground services including utilities, sub-drains, water, or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury, with all work supervised by the consulting arborist.</li> <li>▪ Any herbicides placed under paving materials shall be safe for use around trees and labeled for that use.</li> <li>▪ Lime shall not be used within 50 feet of any tree or subsurface treatment or other purposes. Lime is toxic to tree roots.</li> <li>▪ Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. As trees withdraw water from the soil, expansive soils may shrink within the root area.</li> <li>▪ All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed and retained.</li> <li>▪ Where avoidance of a regulated tree, such as the two valley oaks growing in the central portion of the site (Trees #179 and #180), is not feasible, replacement tree plantings shall be provided at a minimum 3:1 ratio as part of the final landscape plan and in compliance with the City's Municipal Code.</li> </ul> <p>The combination of the above measures would reduce the potential tree impacts to a less-than-significant level.</p>						
<b>CULTURAL RESOURCES</b>						
<p><u>CULTURAL-1a (Construction Monitoring)</u>: Based on the reasonable potential that archaeological resources may be present within the project site, the project applicant shall retain the services of a qualified archeological consultant who shall, in consultation with the City of Novato, devise and carry out an archeological monitoring program. The</p>	Developer and Contractor	City of Novato Community Development & Public Works Departments	Prior to and during construction			



**EXHIBIT B  
ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
<p>goal of the monitoring program shall be to ensure that archaeological resources uncovered during site preparation and construction are identified and appropriately treated.</p> <p>The project applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological resources and shall include the following directive in appropriate construction documents:</p> <p>If prehistoric or historical archaeological deposits are discovered during project activities, all work within 50 feet of the discovery shall be redirected. The project applicant shall notify the City of Novato Planning Division. A qualified archaeologist shall also be contacted to assess the situation and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Archaeological resources that may be encountered include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian or chert toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; artifact-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other material.</p>						
<p><b>CULTURAL-1b (Post-Review Discovery):</b> If deposits of prehistoric or historical archaeological materials are discovered during project activities, all work within 50 feet of the discovery shall be redirected. Project personnel shall not collect or move any archaeological materials. A qualified archaeologist shall be contacted to assess the situation and consult with the City as appropriate. The archaeologist shall make recommendations to the City for the treatment of the discovery.</p>	Developer and Contractor	City of Novato Community Development & Public Works Departments	During construction			

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**Mitigation Monitoring and Reporting Program**

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<p>Adverse effects on archaeological deposits shall be avoided by project activities to the degree feasible. The City shall consult with the project archaeologist and the project applicant to determine if avoidance is feasible. If the City determines that avoidance is not feasible, the archaeological deposit shall be evaluated to determine if it constitutes a historical resource (CEQA Guidelines Section 15064.5(c)(1)) or unique archaeological resource (Public Resources Code Section 21083.2) for the purposes of the California Environmental Quality Act (CEQA). Native American archaeological resources shall be evaluated in consultation with the Federated Indians of Graton Rancheria (FIGR), the federally recognized tribe whose area of traditional authority includes the project site.</p> <p>If the deposit is found to be a historical resource or unique archaeological resource, adverse effects must be avoided if feasible or mitigated. Construction may be delayed while the archaeological investigations described herein are carried out if this is the only feasible means to reduce potential effects on an important archaeological resource to a less-than-significant level. Merely recovering artifacts and storing them does not mitigate impacts to a less-than-significant level. Mitigation may include, but is not necessarily limited to, scientific excavation of the deposit in accordance with a formally constituted data recovery plan (CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; a DPR 523 form filed at the Northwest Information Center (NWIC); and, if appropriate, accessioning of the archaeological material and technical report to an archaeological repository. A public outreach product may also be appropriate, at the discretion of the City Planning Division. The archaeologist shall submit the report to the NWIC on completion of the evaluation and mitigation program.</p>						

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**Mitigation Monitoring and Reporting Program**

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
<p>With implementation of the above mitigation measures, the potential impact on archaeological resources would be reduced to a less-than-significant level.</p> <p><u>CULTURAL-2:</u> If paleontological resources (fossils) are encountered during pre-construction or construction activities, work shall be halted immediately within 50 feet of the discovery, which shall be protected in place. The City of Novato Planning Division shall be notified immediately and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontologist determines that the discovery is an important resource, the paleontologist shall, in consultation with the City Planning Division, devise and carry out a treatment plan for the resources. Appropriate actions may include avoidance, preservation in place, and/or scientific excavation, and documentation. The plan shall include provision for a written report documenting the find and describing steps taken to evaluate it and treat its important values.</p> <p>The project applicant shall inform its contractor of the sensitivity of the project site for paleontological resources. The following directive shall be included in appropriate construction documents:</p> <p style="padding-left: 40px;">This construction site may contain fossils—the petrified remains of ancient plants or animals. If fossils are encountered during construction, all ground-disturbing activities within 50 feet shall be redirected and the project applicant shall notify the City of Novato Planning Division. A qualified paleontologist shall also be contacted to assess the situation and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any fossils or their surrounding soil. Several types of fossils may be present including snails, clam and oyster shells, and sponges; as well as fish, reptile, and mammal bones.</p>	Developer and Contractor	City of Novato Community Development & Public Works Departments	During construction			

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ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

**MITIGATION MONITORING AND REPORTING PROGRAM**

Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
				Initial	Date	Project/Comments
<p>With implementation of the above mitigation measure, the potential impact on paleontological resources would be reduced to a less-than-significant level.</p> <p><u>CULTURAL-3:</u> If human remains are discovered during project activities, the procedures outlined in Section 7050.5 of the California Health and Safety Code shall be implemented. Work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and offer recommendations. Project personnel shall not collect or move any human remains and associated materials.</p> <p>If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) who has 48 hours to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. If the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials at a location not subject to further subsurface disturbance.</p> <p>The project applicant shall inform its contractor(s) of the appropriate procedures if human remains are encountered on the project site. The following directive shall be included in the appropriate construction documents:</p> <p>If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, the project applicant shall notify the City of Novato Planning Division of the discovery, and a</p>	Developer and Contractor	City of Novato Community Development & Public Works Departments	During construction			

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
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<p>qualified archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.</p> <p>With implementation of the above mitigation measure, the potential impact on human remains would be reduced to a less-than-significant level.</p>						
<b>GEOLOGY AND SOILS</b>						
<p><u>GEOLOGY-1:</u> Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical report shall be prepared and submitted to the City of Novato for review and approval in accordance with adopted City standards. The structural designs shall adhere to the 2016 California Building Code (CBC), or more recent codes as applicable. Examples of the kinds of measures typical to meet these requirements include seismic performance standards; foundation design requirements; site preparation, fill, and compaction specifications; drainage requirements; and appropriate safety factors. The report shall also include a construction monitoring plan describing the timing and nature of inspections during construction to ensure that recommendations in the geotechnical report are implemented during project development. All design criteria and specifications set forth in the design-level geotechnical report, including construction inspection and monitoring requirements, shall be implemented as a condition of permit approval.</p>	Developer and Contractor	City of Novato Building Division	Prior to issuance of grading or building permit			
<b>NOISE</b>						
<p><u>NOISE-1:</u> The following measures shall be incorporated into the proposed project to reduce exterior noise levels to 65 dBA L<sub>dn</sub> or below and interior noise levels to 45 dBA L<sub>dn</sub> or below:</p>	Developer and Contractor	City of Novato Community Development	Prior to issuance of building permit and final occupancy			

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ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

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Mitigation Measure	Party Responsible for Ensuring Implementation	Party Responsible for Monitoring	Monitoring Timing	Compliance Verification		
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<ul style="list-style-type: none"> <li>▪ A solid 4-foot-high noise barrier enclosing the private ground-level courtyards at Buildings 4 and 9 along Redwood Boulevard, such as a solid 4-foot-high wood fence, shall be provided to reduce exterior noise levels. The barrier shall not have cracks or gaps in the face of the barrier or at its base and shall have a surface weight of at least 3 pounds per square foot. The gate in the fence shall be solid and have minimal cracks or gaps at its base or jamb. This barrier would provide up to 3 dBA of noise reduction from traffic noise levels along Redwood Boulevard, and would reduce future exterior noise levels to 65 dBA <math>L_{dn}</math> and below the City of Novato’s threshold.</li> <li>▪ A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce interior noise levels to 45 dBA <math>L_{dn}</math> or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, and protected ventilation openings. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City of Novato, along with the building plans and approved design, prior to issuance of a building permit. Based on preliminary calculations, the units of Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10 exposed to Redwood Boulevard traffic noise, would require windows and doors with minimum Sound Transmission Class (STC) ratings of 26 or 28.</li> <li>▪ A suitable form of forced-air mechanical ventilation shall be provided, as determined by the local building official, for residential units proposed in Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10, so that windows can be kept closed at the occupant’s discretion to control interior noise and achieve the interior noise standards.</li> </ul> <p>This measure would reduce the impact to a less-than-significant level.</p>						

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**Mitigation Monitoring and Reporting Program**

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				Initial	Date	Project/Comments
<p><u>NOISE-2</u>: Modification, placement, and operation of construction equipment are possible means for minimizing the impact on the existing sensitive receptors. Construction equipment shall be well-maintained and used judiciously to be as quiet as possible. Additionally, construction activities for the proposed project shall include the following best management practices to reduce noise from construction activities near sensitive land uses:</p> <ul style="list-style-type: none"> <li>▪ Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.</li> <li>▪ All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>▪ Unnecessary idling of internal combustion engines shall be strictly prohibited.</li> <li>▪ Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 “BA.</li> <li>▪ "Quiet" air compressors and other stationary noise sources shall be used where technology exists.</li> <li>▪ Noise from construction workers’ radios shall be controlled to a point where they are not audible at existing residences bordering the project site.</li> <li>▪ The developer shall issue a written notice to all businesses, residences, and other noise-sensitive land uses within a 600-foot radius of the project site advising of the start of construction and</li> </ul>	Developer and Contractor	City of Novato Community Development & Public Works Departments	At time of review of contract specifications and during construction			

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**Mitigation Monitoring and Reporting Program**

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<p>providing contact information for the disturbance coordinator for the project and City of Novato, as required below.</p> <ul style="list-style-type: none"> <li>▪ In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.”</li> <li>▪ A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.</li> </ul> <p>Implementation of the above measures would reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance. With the implementation of these measures, and recognizing that noise generated by construction activities would occur over a temporary period, the temporary increase in ambient noise levels would be less than significant.</p>						
<b>TRANSPORTATION/TRAFFIC</b>						
<p><u>TRANS-1:</u> Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of storage.</p>	Developer and Contractor	City of Novato Public Works Department	Prior to issuance of occupancy certificate			



**EXHIBIT B**  
**ATHERTON PLACE**

**Mitigation Monitoring and Reporting Program**

PLANNING COMMISSION RESOLUTION

RESOLUTION NO.

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING APPROVAL OF AMENDMENTS TO THE ATHERTON RANCH MASTER PLAN, ADOPTED BY CITY OF NOVATO ORDINANCE NO. 1435, TO RESCIND AND REPLACE ALL TEXT AND GRAPHICS ADDRESSING COMMERCIAL DEVELOPMENT ON PARCELS C AND D WITH ATHERTON PLACE (10702M), A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNs 125-600-51 AND -52

WHEREAS, the City Council of the City of Novato ("City") adopted Ordinance No. 1435 on October 24, 2000, approving the Atherton Ranch Master Plan (hereafter "Master Plan"); and

WHEREAS, the approved Master Plan text and exhibits describe the development of a retail/office component, referenced as "Commercial Area," on parcels C and D of the Master Plan area; and

WHEREAS, the City received an application (10702M) proposing to develop Atherton Place ("Project"), a mixed use development featuring 50 townhome-style residential condominium units and a 1,340 square-foot commercial condominium space on parcels C and D of the Master Plan area ("Project Site"); and

WHEREAS, the Master Plan is proposed to be amended to rescind and replace all text and graphics referencing the "Commercial Area" with text and graphics describing the Project; 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 construction and operation of 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 operation and construction of 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, on March 30, 2015, the applicant, Prado Group, conducted a neighborhood meeting to present the Project to nearby residents and answer questions regarding the proposal; and

WHEREAS, on July 8, 2015, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, building height/massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on August 3, 2016, the Novato Design Review Commission conducted a publicly noticed hearing to consider providing a recommendation to the Planning Commission and City Council regarding the Project's site design, building height/massing, and conceptual architecture and landscaping to assist the Planning Commission and City Council in considering whether the Project is compatible with the Project Site and its surroundings; and

WHEREAS, on August 3, 2016, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, building height/massing, and conceptual architecture and landscaping recognizing the Project's well resolved site plan, appropriate height/mass, and acceptable architecture and landscape concepts. This recommendation was based on the findings required to approve design review applications, including observations that the Project would be compatible with the characteristics of the Project Site and surrounding area and maintains consistency with the design related policies of the Novato General Plan; and

WHEREAS, the Planning Commission held a public hearing on November 6, 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 1,000-feet of the boundaries of the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, 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 October 17, 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 Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) 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 (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (5) the Atherton Ranch EIR and Final EIR certified on October 10, 2000 (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 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 considered 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 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 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 public parks and other government service facilities. The IS/MND confirmed the noted service providers have sufficient capacity, facilities, infrastructure, equipment, and staff to serve the Project.

The noted agencies submitted recommended conditions of approval to ensure the Project's infrastructure improvements meet each agency's respective standards. The conditions of approval are applied through the Precise Development Plan and Vesting Tentative Subdivision Map entitlements for the Project, both of which are adopted by separate resolution. 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 Redwood Boulevard right-of-way and are available to the Project.

The IS/MND confirmed the City's existing park and recreation facilities and local government facilities have sufficient capacity to serve 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.

#### *Site Compatibility*

The Project Site does not have any remarkable characteristics or physical constraints with exception of a stand of heritage size oak trees along the Site's frontage at Pinheiro Circle. The Project's primary and alternative site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of the oak trees. The IS/MND prepared for the Project considered these improvements and recommends implementation of Mitigation Measure BIOLOGY-2. Mitigation Measure BIOLOGY-2, among many provisions, requires a professional arborist to monitor work conducted within the dripline of the oaks to minimize the potential for root damage. The Project, although having improvements encroaching into the dripline of the noted oak trees, is considered to be well suited to the specific characteristics of the Project Site.

The Project's primary and alternate site designs efficiently and logically arrange the proposed 50 residential condominium units and 1,340 square-foot retail condominium, on-site parking, outdoor use areas, landscape spaces, and pedestrian amenities over the Project Site. As designed, the Project is considered to be of a development intensity that is reasonable for the size and configuration of the Project Site as supported by the provision of on-site parking consistent with the parking ratios of the Atherton Ranch Precise Development Plan, outdoor use areas of a cumulative size exceeding that otherwise required of multi-family development projects by the Novato Municipal Code, pedestrian amenities providing connectivity to each condominium unit and the surrounding street system, and attractive landscaping.

### *Neighborhood Compatibility*

The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project's primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project's primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.

A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, height/massing, and architectural and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architectural and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be

compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission's recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.

#### *Future Land Use Compatibility*

Construction of the Project would complete development of the Atherton Ranch Master Plan area. Accordingly, no future development or changes in land use are expected to occur in the Master Plan area.

Future development in the project vicinity is most likely to occur on the commercially designated lands along the east side of Redwood Boulevard. This particular area is known as the North Redwood Corridor and is the subject of a focus area being considered in the draft General Plan 2035. The North Redwood Corridor focus area expects a variety of retail and service commercial land uses being developed on vacant properties and lands currently being used for commercial industrial activities. Future uses may include retail outlets, restaurants, hotels, service commercial (e.g., dry cleaner) and similar uses. In addition, the North Redwood focus area anticipates development of the Project Site with multi-family housing.

The Project's development concept is considered to result in a project that is compatible with the expected commercial uses in the North Redwood Corridor focus area. In particular, the physical improvements described for the Project are limited to the Project Site and immediately adjacent portions of the public right-of-way and would not affect the ability to redevelop any of the other properties in the North Redwood Corridor focus area.

Based on the observations above, the Project's development concept is considered to be reasonably suited to the specific characteristics of the Project Site and the surrounding neighborhood in the Master Plan area 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 Atherton Ranch Master Plan to extinguish all references to the text and graphics describing commercial development on Parcels C and D of the Master Plan area, referenced therein as "Commercial Area," and replacing such graphics and text with the language specified in Exhibit A and the Project design plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017, based on the findings set forth herein and subject to the conditions of approval set forth below.

#### **Section 4. Conditions of Approval**

1. Mitigation Measure VISUAL-1: The applicant shall incorporate the following specifications into the proposed project:
  - a. All lighting shall be shielded so that lighting is cast downward and "spillover" is minimized.

- b. Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.
  - c. Whenever possible, lighting for pathways shall be low path lighting.
  - d. All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.
  - e. Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.
2. Mitigation Measure AIR-1: During any construction-period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD) and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:
- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. 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.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - e. 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.
  - f. 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 California Code of Regulations [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - h. A publicly visible sign shall be posted listing the telephone number and person to



contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.

3. Mitigation Measure AIR-2: The applicant shall implement Mitigation Measure AIR-1 and shall also ensure that construction equipment is selected to minimize emissions. Such equipment selection shall include the following:

All diesel-powered off-road equipment operating on the site for more than 2 days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction-period diesel particulate matter (DPM) emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement.

4. Mitigation Measure BIOLOGY-1: Any active bird nests in the vicinity of proposed vegetation removal and grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling grading and vegetation removal during the non-nesting period (September through February), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present, or that nesting has been completed as detailed below, shall be submitted to the City of Novato for review and approval prior to initiation of grading or vegetation removal during the nesting season. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following:
  - a. If initial grubbing and grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of grading or vegetation removal to provide confirmation on presence or absence of active nests in the vicinity.
  - b. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the California Department of Fish and Wildlife (CDFW) and implemented to prevent nest abandonment. At a minimum, vegetation removal and grading in the vicinity of the nest shall be deferred until the young birds have fledged. A nest setback zone of at least 100 feet for raptors and 50 feet for loggerhead shrike and passerine birds shall be established, and all construction-related disturbances shall be prohibited within the nest setback zone. The perimeter of the nest setback zone shall be fenced or adequately demarcated and construction personnel restricted from the area.
  - c. If permanent avoidance of the nest is not feasible, impacts shall be minimized by

prohibiting disturbance within the nest setback zone until a qualified biologist verifies either that a) the birds have not begun egg-laying and incubation, or b) the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.

- d. A survey report of findings verifying that any young have fledged shall be submitted for review and approval by the City of Novato prior to initiation of grading or vegetation removal in the nest setback zone. Following approval by the City of Novato, grading, vegetation removal, and construction in the nest setback zone may proceed as proposed.
5. Mitigation Measure BIOLOGY-2: The project shall comply with Chapter XVII of the Novato Municipal Code. Compliance with the Municipal Code shall be achieved through adherence with the following provisions:
- a. Tree Preservation Guidelines contained in the Arborist Report (HortScience, 2016) shall be implemented to ensure adequate protection of trees to be preserved. This shall include adherence to specified design recommendations, pre-construction treatments and recommendations, and recommendations for tree protection during construction, and the project site plan and other improvement plans shall be revised to reflect minimum design recommendations. Design recommendations include relocating driveways, walking paths, landscape features, and careful controls on any facilities that would require excavation at least 20 feet from the trunk of Trees #168 to #178 and 18 feet from the trunk of Tree #167.
  - b. A Tree Protection Zone (TPZ), defining the limits of construction activity required for successful tree preservation, shall be established around all trees to be retained. Specific features shall include the following:
    - For Trees #168 to #178, the TPZ shall be 20 feet in all directions.
    - For Tree #167, the TPZ shall be 18 feet in the area of the west vehicle access and 20 feet in other areas surrounding the tree.
    - For Trees #155 to #166 and #187, the TPZ shall be established in two phases:
      - During demolition, grading, and building construction, the TPZ shall be 10 feet in all directions. A continuous fence 10 feet from the tree trunks may also be used to separate construction on the site from these trees.
      - During installation of the sidewalk, tree protection fencing shall be placed no closer than 2 feet from the trunk.
  - c. Temporary construction fencing shall remain in place around the TPZ for the duration of construction. Fencing shall not be moved unless under supervision of the consulting arborist, and no grading, excavation, construction, or storage of materials shall occur

within that zone.

- d. Irrigation systems shall be designed so that no trenching severs roots larger than 1 inch in diameter within the TPZ.
  - e. Landscape treatment within the TPZ for Trees #167 to #178 shall be compatible with the requirements of native oak. No irrigation system shall be installed within the tree driplines.
  - f. The two parking stalls and pedestrian path proposed within the TPZ for Trees #176 and #177 shall be designed and installed to minimize any damage to the tree root zone of these trees. The parking stalls and path shall preferably be designed using decomposed granite or some other permeable paving, and the design shall be reviewed and approved by the consulting arborist. Special construction techniques such as advanced hand digging to determine root locations, controlled root-cutting, and other methods to limit damage to the trees, and all work performed within the TPZ, shall be monitored by the consulting arborist.
  - g. Underground services including utilities, sub-drains, water, or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury, with all work supervised by the consulting arborist.
  - h. Any herbicides placed under paving materials shall be safe for use around trees and labeled for that use.
  - i. Lime shall not be used within 50 feet of any tree or subsurface treatment or other purposes. Lime is toxic to tree roots.
  - j. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. As trees withdraw water from the soil, expansive soils may shrink within the root area.
  - k. All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed and retained.
  - l. Where avoidance of a regulated tree, such as the two valley oaks growing in the central portion of the site (Trees #179 and #180), is not feasible, replacement tree plantings shall be provided at a minimum 3:1 ratio as part of the final landscape plan and in compliance with the City's Municipal Code.
6. Mitigation Measure CULTURAL-1a (Construction Monitoring): Based on the reasonable potential that archaeological resources may be present within the project site, the project applicant shall retain the services of a qualified archeological consultant who shall, in consultation with the City of Novato, devise and carry out an archeological monitoring program. The goal of the monitoring program shall be to ensure that archaeological resources uncovered during site preparation and construction are identified and

appropriately treated.

The project applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological resources and shall include the following directive in appropriate construction documents:

If prehistoric or historical archaeological deposits are discovered during project activities, all work within 50 feet of the discovery shall be redirected. The project applicant shall notify the City of Novato Planning Division. A qualified archaeologist shall also be contacted to assess the situation and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Archaeological resources that may be encountered include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian or chert toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; artifact-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other material.

7. Mitigation Measure CULTURAL-1b (Post-Review Discovery): If deposits of prehistoric or historical archaeological materials are discovered during project activities, all work within 50 feet of the discovery shall be redirected. Project personnel shall not collect or move any archaeological materials. A qualified archaeologist shall be contacted to assess the situation and consult with the City as appropriate. The archaeologist shall make recommendations to the City for the treatment of the discovery.

Adverse effects on archaeological deposits shall be avoided by project activities to the degree feasible. The City shall consult with the project archaeologist and the project applicant to determine if avoidance is feasible. If the City determines that avoidance is not feasible, the archaeological deposit shall be evaluated to determine if it constitutes a historical resource (CEQA Guidelines Section 15064.5(c)(1)) or unique archaeological resource (Public Resources Code Section 21083.2) for the purposes of the California Environmental Quality Act (CEQA). Native American archaeological resources shall be evaluated in consultation with the Federated Indians of Graton Rancheria (FIGR), the federally recognized tribe whose area of traditional authority includes the project site.

If the deposit is found to be a historical resource or unique archaeological resource, adverse effects must be avoided if feasible or mitigated. Construction may be delayed while the archaeological investigations described herein are carried out if this is the only feasible means to reduce potential effects on an important archaeological resource to a less-than-significant level. Merely recovering artifacts and storing them does not mitigate impacts to a less-than-significant level. Mitigation may include, but is not necessarily limited to, scientific excavation of the deposit in accordance with a formally constituted data recovery plan (CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field

methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; a DPR 523 form filed at the Northwest Information Center (NWIC); and, if appropriate, accessioning of the archaeological material and technical report to an archaeological repository. A public outreach product may also be appropriate, at the discretion of the City Planning Division. The archaeologist shall submit the report to the NWIC on completion of the evaluation and mitigation program.

8. Mitigation Measure CULTURAL-2: If paleontological resources (fossils) are encountered during pre-construction or construction activities, work shall be halted immediately within 50 feet of the discovery, which shall be protected in place. The City of Novato Planning Division shall be notified immediately and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontologist determines that the discovery is an important resource, the paleontologist shall, in consultation with the City Planning Division, devise and carry out a treatment plan for the resources. Appropriate actions may include avoidance, preservation in place, and/or scientific excavation, and documentation. The plan shall include provision for a written report documenting the find and describing steps taken to evaluate it and treat its important values.

The project applicant shall inform its contractor of the sensitivity of the project site for paleontological resources. The following directive shall be included in appropriate construction documents:

This construction site may contain fossils—the petrified remains of ancient plants or animals. If fossils are encountered during construction, all ground-disturbing activities within 50 feet shall be redirected and the project applicant shall notify the City of Novato Planning Division. A qualified paleontologist shall also be contacted to assess the situation and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any fossils or their surrounding soil. Several types of fossils may be present including snails, clam and oyster shells, and sponges; as well as fish, reptile, and mammal bones.

9. Mitigation Measure CULTURAL-3: If human remains are discovered during project activities, the procedures outlined in Section 7050.5 of the California Health and Safety Code shall be implemented. Work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and offer recommendations. Project personnel shall not collect or move any human remains and associated materials.

If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) who has 48 hours to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. If the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD

and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials at a location not subject to further subsurface disturbance.

The project applicant shall inform its contractor(s) of the appropriate procedures if human remains are encountered on the project site. The following directive shall be included in the appropriate construction documents:

If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, the project applicant shall notify the City of Novato Planning Division of the discovery, and a qualified archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

10. Mitigation Measure GEOLOGY-1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical report shall be prepared and submitted to the City of Novato for review and approval in accordance with adopted City standards. The structural designs shall adhere to the 2016 California Building Code (CBC), or more recent codes as applicable. Examples of the kinds of measures typical to meet these requirements include seismic performance standards; foundation design requirements; site preparation, fill, and compaction specifications; drainage requirements; and appropriate safety factors. The report shall also include a construction monitoring plan describing the timing and nature of inspections during construction to ensure that recommendations in the geotechnical report are implemented during project development. All design criteria and specifications set forth in the design-level geotechnical report, including construction inspection and monitoring requirements, shall be implemented as a condition of permit approval.
11. Mitigation Measure NOISE-1: The following measures shall be incorporated into the proposed project to reduce exterior noise levels to 65 dBA Ldn or below and interior noise levels to 45 dBA Ldn or below:
  - a. A solid 4-foot-high noise barrier enclosing the private ground-level courtyards at Buildings 4 and 9 along Redwood Boulevard, such as a solid 4-foot-high wood fence, shall be provided to reduce exterior noise levels. The barrier shall not have cracks or gaps in the face of the barrier or at its base and shall have a surface weight of at least 3 pounds per square foot. The gate in the fence shall be solid and have minimal cracks or gaps at its base or jamb. This barrier would provide up to 3 dBA of noise reduction from traffic noise levels along Redwood Boulevard, and would reduce future exterior noise levels to 65 dBA Ldn and below the City of Novato's threshold.

- b. A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce interior noise levels to 45 dBA Ldn or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, and protected ventilation openings. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City of Novato, along with the building plans and approved design, prior to issuance of a building permit. Based on preliminary calculations, the units of Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10 exposed to Redwood Boulevard traffic noise, would require windows and doors with minimum Sound Transmission Class (STC) ratings of 26 or 28.
  - c. A suitable form of forced-air mechanical ventilation shall be provided, as determined by the local building official, for residential units proposed in Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
12. Mitigation Measure NOISE-2: Modification, placement, and operation of construction equipment are possible means for minimizing the impact on the existing sensitive receptors. Construction equipment shall be well-maintained and used judiciously to be as quiet as possible. Additionally, construction activities for the proposed project shall include the following best management practices to reduce noise from construction activities near sensitive land uses:
- a. Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.
  - b. All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - c. Unnecessary idling of internal combustion engines shall be strictly prohibited.
  - d. Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
  - e. "Quiet" air compressors and other stationary noise sources shall be used where technology exists.

- f. Noise from construction workers' radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
  - g. The developer shall issue a written notice to all businesses, residences, and other noise-sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
  - h. In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.
  - i. A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.
13. Mitigation Measure TRANS-1: Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of storage.
14. The Project is subject to additional conditions of approval as specified in its accompanying Precise Development Plan and Vesting Tentative Map resolutions.
15. 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        .

Chairman

Attachments

Exhibit A – Atherton Place Master Plan Text Amendments

Exhibit B - Atherton Place - Novato General Plan Consistency & Advancement Findings

Ref: 10702M

## **EXHIBIT A**

### **ATHERTON PLACE**

#### **ATHERTON RANCH MASTER PLAN AMENDMENTS**

All text and associated graphics describing commercial development on Parcels C and D, referenced as “Commercial Area,” of the Atherton Ranch Master Plan (City of Novato Ordinance No. 1435) is hereby replaced with the following text addressing Atherton Place.

1. Atherton Place. Parcels C and D of the Atherton Ranch Master Plan shall be limited to development of 50 attached residential condominiums and a 1,340 square-foot commercial condominium space, representing a total floor area (FAR) of 0.59, as depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
2. Atherton Place – Residential Condominiums. The residential condominiums shall be used for residential dwelling purposes. Home occupations may be conducted consistent with Novato Municipal Code Section 19.34.080, as may be subsequently amended.
3. Atherton Place - Commercial Condominium. The following land use are permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences.

Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

4. Residential accessory dwelling units and junior accessory dwelling units shall not be permitted.

## EXHIBIT B

### ATHERTON PLACE

#### NOVATO GENERAL PLAN CONSISTENCY & ADVANCEMENT FINDINGS

The following discussion lists policies of the 1996 Novato General Plan applicable to Atherton Place 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 Site is assigned the Mixed-Use (MU) land use designation of the 1996 Novato General Plan. The MU designation permits the combination of commercial uses (e.g., retail, offices, personal services) and residential units; housing development may only be permitted in conjunction with a qualifying commercial use.

The MU designation addresses development intensity via floor area ratio (FAR), which includes habitable floor area and excludes non-habitable garage areas. The maximum FAR for commercial development is 0.40 and up to 0.80 when housing is incorporated into a project. The MU designation does not specify a maximum or minimum ratio of commercial area to housing space.

The Project includes 50 residential condominiums with a cumulative floor area of 90,823 square-feet and a single commercial condominium space of 1,340 square-feet. The following land uses are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses

which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences. Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

These activities are consistent with the types of land uses permitted by the MU land use designation.

The Project proposes a cumulative floor area of 92,163 square-feet. This intensity of development represents an FAR of 0.59 based on the Project Site's area of 3.60 acres. This FAR level falls under the maximum FAR of 0.80 offered to mixed-use projects.

Based on the facts above, the Project is hereby found to be consistent with and advances 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 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 and services addressing potable and recycled water, sewer, emergency medical/fire, and stormwater control. Each agency has provided conditions of approval intended to insure the Project provides adequate infrastructure and has confirmed the ability to serve the Project. These conditions of approval are to be adopted for the Project and implemented through the construction design and physical construction phases of the Project. These agencies did not identify any constraints to serving the Project on an individual or cumulative basis.

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 land use, development intensity, and design of the Project. The CEQA IS/MND also analyzed the demand for public parks and other government service facilities. The CEQA 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 above and the analyses, impact findings, and mitigation measures specified in the CEQA IS/MND, 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.

TR Program 4.1: Establish traffic Level of Service standards as follows:

- a. At intersections with signals or four-way stop signs: operation at LOS D
- b. At intersections with stop signs on side streets only: operation at LOS E.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential traffic implications of constructing and operating the Project at the Project Site both individually and cumulatively. The CEQA IS/MND concluded the Project's incremental addition of 23 AM and 31 PM peak hour trips to existing traffic conditions would not cause the intersections serving the Project Site to exceed the level of service (LOS) thresholds established by TR Program 4.1 individually; all intersections would operate at LOS B or better.

Under cumulative (future) conditions, the intersections serving the Project are projected to operate at LOS F in an unmitigated condition. The CEQA IS/MND observed the Project would pay development impact fees that would be applied to capacity enhancements at the Atherton/San Marin/US 101 interchange and reimburse improvements already made to the intersection of Olive Avenue and Redwood Boulevard. Improvements to these intersections are expected to maintain an acceptable LOS under cumulative development conditions.

The CEQA IS/MND notes the intersection of Golden Gate Place, Ranch Drive, and Redwood Boulevard, operating at LOS A with and without the Project in the near term, would operate at LOS F under cumulative development conditions. The CEQA IS/MND indicates the Project does not contribute to this impact. Instead, this impact is attributed to the development of new retail outlets on the east side of Redwood Boulevard between Olive Avenue and San Marin Drive. The CEQA IS/MND indicates this particular intersection would operate acceptably at LOS C under future conditions if signalized. This matter is being addressed through Novato's ongoing General Plan update, which includes a CEQA assessment addressing future retail development in the North Redwood Corridor.

Based on the findings of the traffic analysis presented in the CEQA IS/MND, the Project is hereby found to be consistent with and advance Transportation Policy 4.

TR Policy 11 Traffic Safety. Improve the safety of the roadway system.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for safety hazards related to roadway operations and project design, as well as cumulative impacts on roadway infrastructure. The CEQA IS/MND concluded the Project would not provide sufficient vehicle queuing capacity in the eastbound left-turn pocket on Ranch Drive, representing a potential traffic hazard. Mitigation Measure TRAN-1 is proposed to avoid this hazard by requiring restriping of Ranch Drive to eliminate an existing westbound turn pocket on Ranch Drive and extending the eastbound left-turn pocket to provide a minimum of 50-feet of vehicle queuing space. No other traffic safety issues were identified for the Project.

Based on the facts above, the Project is hereby found to be consistent with TR Policy 11.

## ***HOUSING***

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.

HO Policy 3.2 Design that Fits into the Neighborhood Context. It is the City's intent that neighborhood identity and sense of community will be enhanced by designing all new housing to have a transition of scale and compatibility in form to the surrounding area.

Facts in Support: The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project's primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project's primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.

A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes

closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, building height/massing, and architecture and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architecture and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission's recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.

Based on the facts above, the Project is hereby considered to be consistent with CI Policy1 and HO Policy 3.2.

HO Policy 3.3 Housing Design Principles. The intent in the design of new housing is to provide stable, safe, and attractive neighborhoods through high quality architecture, site planning, and amenities that address the following principles:

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story setbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.

Facts in Support: The Project's architectural design minimizes the appearance of building height and mass by including the following:

- roofs of varying heights and planes providing vertical articulation
- window bays with shed roof dormers creating horizontal and vertical articulation
- consistent rhythm of window with large window openings avoiding large uninterrupted wall planes
- covered porches and window bays on the side elevation of end units creating four sided architectural interest



- variation of finish materials, including a mix of stucco, shingle, and horizontal and vertical siding, avoiding the monotony of a single siding type
  - varying garage door designs to avoid a monotonous rhythm of blank spaces on rear elevations of the condominiums
  - decorative bracketing, corbels, and column features adding relief and architectural interest to the exterior elevations.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.

Facts in Support: The Project Site fronts on Redwood Boulevard, Ranch Drive, and Pinheiro Circle. Redwood Boulevard is an arterial street with a commercial pattern of development. The condominium buildings at Redwood Boulevard are located approximately 26.5-feet away from the back of sidewalk along this roadway, providing a generous and appropriate transition from public space (sidewalk) to semi-private landscaped spaces and private courtyards.

Ranch Drive and Pinheiro Circle are residential streets and are defined by existing residences with front entries and porches facing the street. The Project has several condominium units with side elevations adjoining Ranch Drive and Pinheiro Circle. The side elevations of these condominiums feature a wrap-around porch and window bays giving the appearance of a traditional front elevation. This design treatment relates well to Pinheiro Circle and Ranch Drive and is consistent with the pattern of development in Atherton Ranch.

The Project does not present any potential privacy issues with nearby residences since there is substantial distance between proposed and existing residential units.

- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.

Facts in Support: The Project’s primary and alternative site designs orient new development on internal landscape spaces and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard. In addition, the project includes a strong pedestrian orientation with connectivity to internal outdoor spaces, guest parking, and the surrounding street system. Key focal areas and pedestrian amenities include:

- a plaza space at Redwood Boulevard
- two interior landscaped courtyard spaces
- a central pedestrian spine running east and west from the plaza at Redwood Boulevard to

the outdoor use area between Buildings 1 and 12

- a pedestrian pathway connecting to the main guest parking areas within the project and the interior courtyard areas
  - an outdoor seating area connected to the commercial tenant space
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

Facts in Support: The garages and guest parking stalls in the Project would be accessed by internal drive aisles. Several garages would be visible from Pinheiro Circle and Ranch Drive. However, these garages do not directly front onto these streets and would not dominate the street facing façades of the condominium units. The Project includes a variety of garage door designs to avoid a monotonous pattern of doors.

The majority of the Project's surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the Project or the larger Atherton Ranch development.

Based on the facts above, the Project's primary and alternative site design and architecture and landscape concept are hereby found to be consistent with HO Policy 3.3.

HO Policy 7.2 Variety of Housing Choices. In response to the broad range of housing needs in Novato, the City will strive to achieve a mix of housing types, densities, affordability levels and designs. The City will work with developers of 'non-traditional' and innovative housing approaches relating to the design, construction and types of housing that meet local housing needs, which may include, but not be limited to, provision of the following types of housing at varying affordability levels:

- a. Owner and renter housing
- b. Small and large units
- c. Single and multi-family housing
- d. Housing close to jobs and transit
- e. Mixed use housing
- f. Supportive housing
- g. Single Room Occupancy units (SRO's)

- h. Shared living opportunities and co-housing
- i. Manufactured housing
- j. Self-help or “sweat equity” housing
- k. Cooperatives or joint ventures
- l. Assisted living

Facts in Support: The Project provides a mix of medium to large residential condominiums, a multi-family housing type that is in demand in Novato. Accordingly, the Project is hereby found to be consistent with HO Policy 7.2.

## ***ENVIRONMENT***

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

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.

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: 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 discussed in the CEQA IS/MND, the Project is required to comply with provisions of the National Pollution Discharge Elimination System (NPDES) and the State Water Resources Control Board’s Phase II Small Municipal Separate Storm Sewer Systems Permit (MS4s Permit).

The NPDES program requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential adverse impacts to surface water quality through the Project’s construction period. The SWPPP must include Best Management Practices (BMPs) addressing erosion and sediment control, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

The MS4s permit program requires the development and implementation of a post-construction stormwater control plan (SCP) that incorporates low impact development elements to maintain a project site’s pre-development stormwater run-off rates and volumes. The requirements of the MS4s permit are managed by the Marin County Stormwater Pollution Prevention Program (MCSTOPP) with guidance via a design manual prepared by the Bay Area Stormwater Management Agencies Association (BASMAA). Low impact design elements include the use of permeable pavements and bioretention areas where stormwater run-off can be naturally filtered

prior to entering the public stormwater drainage system.

The project developer has submitted a preliminary stormwater control plan for the Project. The preliminary stormwater control plan has been reviewed by the Novato Public Works Department, which has determined the preliminary plan demonstrates the Project's stormwater drainage design can meet the requirements of the MS4s permit. The Public Works Department has applied conditions of approval requiring the applicant to prepare a final SCP, as well as a SWPPP and Erosion and Sediment Control Plan. These documents will be submitted with the improvement plans prepared for the construction phase of the Project.

Compliance with the programs and conditions of approval noted above would ensure the Project protects water resources consistent with EN Policies 7, 35, and 37.

EN Policy 19 Special Status Species. Cooperate with State and Federal Agencies to ensure that development does not substantially adversely affect special status species appearing on the State or Federal list for any rare, endangered, or threatened species. The environmental documentation will screen for the Federal Candidate Species, plants listed on lists 1A, 1B, or 2 of the California Native Plant Society (CNPS), inventory of rare and endangered vascular plants of California and animals designated by CDFG as species of special concern or their current equivalent.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in the CEQA IS/MND, the Project Site does not host sensitive natural communities or native populations of plants or animals. However, the CEQA IS/MND observed the Project could potentially impact birds and/or raptors nesting in trees located on the Project Site. Given this circumstance the CEQA IS/MND recommends implementation of mitigation measure BIOLOGY-1.

Mitigation Measure BIOLOGY-1 is intended to reduce and/or avoid the Project's potential to disturb nesting birds during construction of the Project. Mitigation Measure BIOLOGY-1 requires pre-construction surveys for nesting birds no more than 7-days prior to the commencement of grading or vegetation removal. Mitigation Measure BIOLOGY-1 provides specific steps to be followed in the event nesting birds are located, including consultation with the California Department of Fish and Wildlife and the establishment of appropriate buffer areas within which construction work would not be permitted until young birds have fledged.

Based on the findings of the CEQA IS/MND and implementation of the noted mitigation measure, the Project is hereby found to be consistent with and advance EN Policy 19.

EN Policy 25 Trees on Private Property. Encourage and, where appropriate, require actions by private property owners to protect the health of native woodlands and trees.

EN Policy 26 Trees in New Development. Require that the site planning, construction and maintenance of development preserve existing healthy trees and native vegetation on site to the maximum extent feasible. Replace trees and vegetation not able to be saved.

Facts in Support: The Project Site hosts a stand of heritage size oak trees along Pinheiro Circle. The Project's primary and alternate site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of certain oak trees. The CEQA IS/MND prepared for the Project analyzed these improvements and recommends Mitigation Measure BIOLOGY-2 to minimize potential damage to tree roots resulting from the noted encroachments.

Mitigation Measure BIOLOGY-2 requires a variety of steps to prevent damage to regulated trees, including, but not limited to: a) defining a tree protection zone for each regulated tree (typically 18- to 20-feet in all directions from tree trunk); b) supervision of work by a consulting arborist; and c) the use of permeable pavers where paved features must encroach into the tree protection zone.

Compliance with Mitigation Measure BIOLOGY-2 would minimize the possibility of damaging the roots of the existing oak trees along Pinheiro Circle consistent with EN Policies 25 and 26.

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 observations 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: The CEQA IS/MND prepared for the Project analyzed the potential effect of the development on air quality. The CEQA IS/MND conclude the project could generate dust and toxic air contaminants (TACs) consisting of diesel particulate matter that may negatively impact the environment. Given this circumstance the CEQA IS/MND recommends Mitigation Measures AIR-1 and AIR-2 to minimize dust and TACs from construction equipment exhaust.

Mitigation Measure AIR-1 is proposed to avoid the release of fugitive dust during construction of

the Project via implementation of best management practices recommended by the Bay Area Air Quality Management District (BAAQMD), including watering exposed soils, tarping soil stockpiles, limiting construction vehicle speeds, and posting contact information to report dust complaints. These actions would protect local air quality by minimizing the potential for construction related dust.

Mitigation Measure AIR-2 is proposed to reduce toxic air contaminants resulting from the operation of diesel powered equipment during construction of the Project. Mitigation Measure AIR-2 requires the developer to implement Mitigation Measure AIR-1 and also ensure that construction equipment is selected to minimize exhaust emissions, such as operating diesel-powered off-road equipment meeting U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent and/or the use of California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel). Compliance with these provision would protect local air quality by minimizing diesel exhaust emissions.

Based on the findings of the CEQA IS/MND and implementation of Mitigation Measures AIR-1 and AIR-2, the Project is hereby found to be consistent with EN Policy 34

### ***SAFETY & NOISE***

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

SF Policy 3 Slope and Soil Instability. Continue to enforce existing regulations and procedures to identify potential hazards relating to geologic and soils conditions.

Facts in Support: The CEQA IS/MND prepared for the Project considered the soil and seismic hazards potentially affecting structures on the Project Site. The CEQA IS/MND determined the Project Site is subject to significant hazards as a result of strong seismic ground shaking. Given this circumstance, the CEQA IS/MND recommends Mitigation Measure GEOLOGY-1 to reduce the risk of loss, injury, or death related to strong seismic ground shaking. Mitigation Measure GEOLOGY-1 requires the Project to be designed and constructed in accordance with the California Building Code and recommendations of the Project's design-level geotechnical report, addressing such items as over-excavation of weak soils, the placement and compaction of engineered fill soils, and foundation and drainage system design.

Implementation of Mitigation Measure GEOLOGY-1 would reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards and site specific soil conditions consistent with SF Policies 1 and 3.

SF Policy 9 Storm Drainage System. Maintain unobstructed water flow in the storm drainage system.

Facts in Support: The project developer submitted a preliminary drainage plan for the Project. The preliminary drainage plan has been reviewed by the Novato Public Works Department to

determine if the existing public stormwater drainage system has sufficient capacity to accommodate the Project's stormwater run-off. The preliminary drainage plan was found to demonstrate there is adequate capacity in the public drainage system to accommodate the Project. The Public Works Department has applied a condition of approval requiring a final drainage plan for the Project. The final storm drainage plan would be submitted with the improvement plans for the construction phase of the Project.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 9.

SF Policy 16 Fire Risk in New Development. Review all development proposals for fire risk, and require mitigation measures to reduce the probability of fire.

Facts in Support: The Project was referred to the Novato Fire Protection District for review and comment on emergency medical and fire safety issues. The Fire District indicated it was satisfied with the access lanes, parking configuration, and points of entry for the Project. However, the Fire District did recommend conditions of approval to ensure the Project's design detail plans include key fire and life safety features as required by the District's adopted standards. The Fire District will review the construction level design plans prepared for the Project to ensure the new condominiums meet the District's standards.

As described in the Hazards and Hazardous Materials section of the CEQA IS/MND, the Project Site is not located in an area with high fire risk as mapped by the Novato Fire Protection District, and no mitigation is required to reduce the risk of wildland fire.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 16.

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.

SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

Facts in Support (SF Policy 37 & 38): The CEQA IS/MND prepared for the Project determined the residential units proposed along Redwood Boulevard would not meet the City's standard of 65 dBA  $L_{dn}$  for exterior noise levels at multi-family residential uses. Additionally, the residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) would not meet the City of Novato's standard of 45 dBA  $L_{dn}$  for interior noise levels with standard construction methods. Given these findings, Mitigation Measure NOISE-1 is recommended in the CEQA IS/MND to reduce exterior noise levels to 65 dBA  $L_{dn}$  and interior noise to 45 dBA  $L_{dn}$ .

Mitigation Measure NOISE-1 requires a 4-foot high solid noise barrier (fence) to reduce exterior noise in the private patios of Buildings 4 and 9 to an acceptable level of 63 dBA  $L_{dn}$ . In addition, Mitigation Measure NOISE-1 requires a qualified acoustical consultant to review the final site plan, building elevations, and floor plans of the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) prior to construction to recommend building treatments

to reduce interior noise levels to 45 dBA L<sub>dn</sub>. Such treatments may include sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Mitigation Measure NOISE-1 also requires a forced-air mechanical ventilation system (air conditioning) for Buildings 4 and 9 so that windows may be kept closed at the occupant's discretion to control interior noise.

As described in the Noise Section of the CEQA IS/MND, the Project would cause a temporary increase in ambient noise levels during construction activities. Accordingly, Mitigation Measure NOISE- 2 is proposed to minimize noise disturbances due to construction activities. Mitigation Measure NOISE-2 requires the implementation of a variety of procedures to minimize construction noise, including:

- Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.
- All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- "Quiet" air compressors and other stationary noise sources shall be used where technology exists.
- Noise from construction workers' radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
- The developer shall issue a written notice to all businesses, residences, and other noise sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
- In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion."
- A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem.



The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

Based on the facts above, the Project is considered to be consistent with SF Policies 37 and 38.

### ***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 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. The Water District requested the Project connect to its recycled water main located in Redwood Boulevard and comply with District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 addresses plumbing fixtures, plant selection, and irrigation features.

The Project's conceptual landscape plan details a plant list predominantly comprised of low water use trees, shrubs, and groundcovers. The specifics of the Project's irrigation and plumbing systems will be developed when construction detail plans are prepared for the development. The Project's construction detail plans will be reviewed to determine compliance with the District's water conservation ordinance.

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

### ***COMMUNITY IDENTITY***

CI Policy 7 Landscaping. Encourage attractive native and drought-tolerant, low-maintenance landscaping responsive to fire hazards.

Facts in Support: The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. In this instance, the Project proposes an extensive plant list comprised predominantly of low water use species with the balance of plants requiring medium water use. In addition, the Project will connect into the Water District's recycled water line for landscape irrigation. The combination of low water use plants and recycled water for irrigation will minimize water use for landscaping purposes. See also the discussion for SF Policy 16 above.

Based on the facts above, the Project is hereby found to be consistent with CI Policy 7.

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

Facts in Support: All utilities serving the Project will be placed underground 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 for the Project is provided via two-car garages attached to each residential condominium unit and surface parking stalls for guests and tenants/patrons of the retail condominium space. The majority of the surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the project or the larger Atherton Ranch development.

Based on the facts 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's primary site design would provide 50,827 square-feet (1.16 acres) of usable outdoor space, including:

- Ranch Drive Garden (between Bldgs. 2 & 3) - 4,172 sq. ft.
- Pinheiro Circle Garden (between Bldgs. 10 & 11) - 3,813 sq. ft.
- Atherton Village Green (between Bldgs. 9 & 4) - 3,911 sq. ft.
- The Promenade (between Bldgs. 5, 6, 7, & 8) – 6,326 sq. ft.
- The Park (between Bldgs. 1 & 12; Atherton Ranch Park Easement) – 20,888 sq. ft.
- Private Residential Patios – 11,717 sq. ft.

The Project's alternative site design would provide 43,409 square-feet (.99 acres) of usable outdoor space, including all of the features listed above and excluding improvements within the Atherton Ranch Home Owners' Association (Atherton Ranch HOA) park easement (approximately 7,418 sq. ft.).

The figures above do not include the undeveloped area surrounding the heritage oak trees along Pinheiro Circle.

Both site designs include the addition of two children's play structures. These features were added to the Project at the request of the Atherton Ranch HOA. This request was based on concerns the Project did not provide sufficient play features and would therefore lead to increased use of the existing play structures in the private park at Atherton Ranch.

The usable open space provided by the primary site design and alternative site plan provide two-and-a-half to two times the amount of open space area required for multi-family residential projects by the Novato Municipal Code. The Novato Municipal Code does not require the provision of children's play structures in outdoor use areas.

Based on the observations 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 features a clearly defined pedestrian circulation system with each residential unit connected to a walkway offering a path of travel to outdoor space amenities, surface parking areas, and the surrounding street system. Notable pedestrian amenities include the promenade and connecting pathways between Buildings 5, 6, 7, and 8 and the generously wide sidewalk offered along Redwood Boulevard. Based on these features, 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: The CEQA IS/MND prepared for the Project indicates there are no known archaeological or paleontological resources at the Project Site. Regardless, there remains a possibility that unknown, buried prehistoric or paleontological resources could be encountered or damaged during construction of the Project. Given this circumstance, the CEQA IS/MND recommends implementation of Mitigation Measures CULTURAL-1a, CULTURAL-1b, CULTURAL 2, and CULTURAL-3 to avoid impacts to such resources if encountered during construction.

Mitigation Measures CULTURAL-1a and CULTURAL-1b are proposed to ensure the protection of unknown, buried cultural resources. Mitigation Measure CULTURAL-1a requires the applicant to retain a qualified archeological consultant to develop and implement an archeological monitoring program to ensure any archeological resources uncovered during site preparation and construction are identified and appropriately treated. Mitigation Measure CULTURAL-1b requires all work to be stopped within 50-feet of a suspected archeological resource and review of any such a find by a qualified archeologist.

Mitigation Measure CULTURAL-2 is intended to ensure the protection of paleontological resources. Mitigation Measure CULTURAL-2 stipulates that if a suspected fossil is encountered, 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, a treatment plan shall be developed by a qualified paleontologist.

Mitigation Measure CULTURAL-3 is proposed to ensure the protection of unknown, buried human remains. Mitigation Measure CULTURAL-3 requires compliance with the uniform procedures of Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code. The cited code sections specify the procedures that shall be

implemented should buried human remains be encountered during project construction, including notifying the county coroner within 24-hours of discovery and contacting the Native American Heritage Commission should the remains be determined to be Native American. The most likely decedent of a deceased Native American or their representative shall then determine, in consultation with the property owner, treatment of the human remains.

Based on the facts above, the Project is not anticipated to have an adverse effect on archeological or paleontological resources and is hereby found to be consistent with CI Policy 30.

PLANNING COMMISSION RESOLUTION

RESOLUTION NO.

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE THE PRECISE DEVELOPMENT PLAN AMENDMENT AND DESIGN REVIEW (10702M) FOR ATHERTON PLACE, A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNs 125-600-51 AND -52

WHEREAS, the City of Novato ("City") received applications for a master plan amendment, precise development plan amendment, vesting tentative subdivision map, vacation of a public drainage easement, and design review to permit the construction and operation of Atherton Place ("Project"), a mixed-use development project featuring 50 townhome-style residential condominiums and 1,340 square-feet of retail floor area, located at 7533 and 7537 Redwood Boulevard (collectively "Project Site"), APNs 125-600- 52 and -53; and

WHEREAS, the precise development plan amendment application requests the City amend the Atherton Ranch Precise Development Plan to incorporate the Project's design plans and accompanying documents addressing the design and operation of the Project; and

WHEREAS, the design review application requests the City approve the site design, building massing/height, landscaping, and architecture for the Project, as presented on the Project's design plans; and

WHEREAS, the precise development plan amendment and design review for the Project consist of the site design, building height/massing, and conceptual architecture and landscaping plans prepared for the Project; 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 as presented in the precise development plan amendment and design review application exhibits, and the other development entitlements required for the Project, including amendments to the Atherton Ranch Master Plan and a Vesting Tentative Subdivision Map, and the operation and construction of the Project itself, to determine if these 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 requested precise development plan amendment and design review, the other development entitlements required for the Project, or the operation and construction 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, on March 30, 2015, the applicant, Prado Group, conducted a neighborhood meeting to present the Project to nearby residents and answer questions regarding the proposal; and

WHEREAS, on July 8, 2015, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, building height/massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on August 3, 2016, the Novato Design Review Commission conducted a publicly noticed hearing to consider providing a recommendation to the Planning Commission and City Council regarding the Project's site design, building height/massing, and conceptual architecture and landscaping to assist the Planning Commission and City Council in considering whether the Project is compatible with the Project Site and its surroundings; and

WHEREAS, on August 3, 2016, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, building height/massing, and conceptual architecture and landscaping recognizing the Project's well resolved site plan, appropriate mass/scale, and generally acceptable architecture and landscape concepts. This recommendation was based on the findings required to approve design review applications, including observations that the Project would be compatible with the characteristics of the Project Site and surrounding area, and maintains consistency with the design related policies and programs of the Novato General Plan; and

WHEREAS, the Planning Commission held a public hearing on November 6, 2017, and considered all oral and written comments on the Project, including the proposed amendments to the Atherton Ranch Precise Development Plan and the Project's design elements at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing regarding the Project, including the proposed amendments to the Atherton Ranch Precise Development Plan and the Project's design elements at issue herein were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, 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 October 17, 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 Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) 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 (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (5) the Atherton Ranch EIR and Final EIR certified on October 10, 2000, (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 3. Findings**

**Precise Development Plan Amendment & Design Review**

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 Atherton Ranch Precise Development Plan and the findings required by Section 19.42.030.F of the Novato Municipal Code with the respect to the proposed Design Review, based on the findings and recommendation of the Novato Design Review Commission:

**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.**

**Design Review Finding 1. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines and**

**all applicable provisions of this code, including this title and any approved master plan and precise development plan.**

Facts in Support: The Precise Development Plan amendments for Atherton Place, consisting of the project plans and text attached hereto as Exhibit A, have been reviewed for consistency with applicable policies of the Novato General Plan and the Atherton Ranch 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 Atherton Ranch Master Plan as amended and presents statements of fact demonstrating the Project's consistency therewith.

The Design Review application for Atherton Place, consisting of the Project plans, was reviewed for consistency with the design related policies of the Novato General Plan and the development concept contemplated for the proposed amendments to the Atherton Ranch Master Plan and Precise Development Plan. Based on this review, the Project's design is hereby found to be consistent with all applicable policies of the General Plan and the development concept proposed in the Master Plan and Precise Development, as documented in Exhibit B attached hereto and incorporated herein by reference. Exhibit B lists applicable design related policies of the General Plan and presents statements of fact demonstrating the Project's consistency therewith.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, building height/massing, and architectural and landscaping concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architectural and landscaping concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building mass/scale, and acceptable architectural and landscape concepts.

The Design Review Commission made the observation that 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 and relying on the applicable design related policies of the Novato General Plan.

**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;**



**Design Review Finding 2. The proposed 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.**

Facts in Support: The Project is considered to present a comprehensive and high quality development, enhance community character, provide for harmonious development, and create 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 private park at Atherton Ranch, and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard.
- The Project's site design preserves the existing stand of heritage oak trees along Pinheiro Drive and maintains a sufficient setback from the private park at Atherton Ranch.
- On-site vehicle circulation is logically arranged and provides adequate access from Ranch Drive and Pinheiro Circle to the private two-car garage provided for each residence and surface parking for guests and patrons/employees of the retail space.
- On-site parking complies with the parking ratios specified in the Atherton Ranch Precise Development Plan for multi-family residential units and retail space. On-site parking, including an attached two-garage for each residence, is conveniently accessible via internal drive aisles and is equitably distributed throughout the Project Site. On-site surface parking is largely screened from view of surrounding residences by the Project's proposed condominium units.
- The attached two-car garage provided for each living unit is oversized to accommodate the storage of refuse cans and offers overhead storage to avoid situations where stored items prevent vehicle parking.
- The Project features a clearly defined pedestrian circulation system with each residential unit connected to a walkway offering a path of travel to on-site outdoor use spaces, on-site surface parking areas, and the surrounding street system.
- The Project provides a variety of common and private outdoor use areas, including internal garden spaces and pedestrian promenade for passive recreation and socializing, two children's play areas with play structures, and private patios connected to each residential unit. The amount of outdoor use space proposed is two to two-and-a-half times that required by the Zoning Ordinance.
- The Project is designed in a Craftsman architectural style, which is reflective of the architecture of the single-family homes in Atherton Ranch.
- The residences fronting Redwood Boulevard have entries and private patios facing the street, creating an attractive and inviting streetscape that clearly defines private (patios), semi-private (landscape space), and public (sidewalk) spaces;

- The Project’s site design provides a view corridor extending from the private park at Atherton Ranch (west) to Redwood Boulevard (east), including a pedestrian promenade of 34-feet to 42-feet in width between Buildings 5, 6, 7 and 8 and a plaza space of approximately 52-feet wide at Redwood Boulevard;
- The condominium units fronting the Atherton Ranch park have entries facing the park, which is reflective of the nearby Victorian townhomes at Atherton Ranch. This design approach helps unify the Project with the larger Atherton Ranch community by creating an appearance that both projects were planned to be oriented around the park space;
- The end units of the Buildings 1, 2, 3, 6, 7, 10, 11, and 12 that face Ranch Drive, Pinheiro Drive, and Atherton Ranch’s private park have exterior porches that wrap the front and street/park fronting sides of these units. This design treatment creates a sense of activity at the street edge, places “eyes” on the park and streets, and enhances the architectural appeal of these particular units.
- The proposed buildings are of a height (up to 39-feet) and configuration reflective of the existing Victorian townhomes at Atherton Ranch, including two floors of living space over a two-car garage.
- The Project’s landscape concept incorporates a variety of native and naturalized plant species, almost all of which require low water use. The landscape plan emphasizes tree plantings, featuring fourteen different evergreen and deciduous tree species dispersed throughout the site and along the Project’s street frontages. The landscape plan also incorporates bioretention features to naturally filter stormwater runoff. Nearly one third of the Project Site is reserved for landscaping and outdoor use space.

Many of the design elements detailed above would not be possible were the Project subject to the traditional development standards of Novato Zoning Ordinance. For example, the application of traditional multi-family residential setbacks would prevent the Project from providing a meaningful level of development comparable to the Victorian townhomes at Atherton Ranch while at the same time offering significantly more landscaped and outdoor use space than uniform code standards. With respect to parking, the Project offers oversized two-car garages for each residential unit, whereas a similar development subject to traditional multi-family zoning could merely provide carports providing one covered space. Based on these facts, the Project presents a design that is superior to that which could otherwise be achieved by application of traditional zoning requirements.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project’s site design, building height/massing, and architectural and landscaping concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architectural and landscaping

concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building mass/scale, and acceptable architectural and landscape concepts.

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 and the applicable design related policies of the Novato General Plan.

**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;**

**Design Review Finding 3: The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.**

Facts in Support: The 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 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 adopted for the Project and 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 potential for safety hazards related to the construction and operation of the Project. The IS/MND concludes the Project's construction could result in potentially significant impacts related to: aesthetics, air quality, biological resources, cultural resources, geology/soils, noise, and transportation. The IS/MND recommends feasible mitigation measures to avoid or reduce all potentially significant impacts to a less than significant level. These mitigation measures are set forth as conditions of approval for the Project as specified in Exhibit C attached hereto. Implementation of the recommended mitigation measures/conditions of approval would insure the Project's construction and operation 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 or the larger Atherton Ranch area.

Based on facts above, the Project 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; c) interfere with the use and enjoyment of neighboring existing or future developments; and d) create potential traffic, pedestrian or bicycle hazards.

**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 Compatibility*

The Project Site is considered to be physically suitable for the type and density/intensity of development and precise development standards being proposed for the Project recognizing the site does not host significant physical constraints, is of a uniform shape, and is served by an existing street system with capacity to accommodate new vehicle trips. As demonstrated by the project plans the Project Site can accommodate the proposed condominium units and their required on-site parking while providing extensive landscaping, offering generous private and common outdoor use areas, and maintaining view corridors through the Project.

The Project Site hosts a stand of heritage size oak trees along the Site's frontage at Pinheiro Circle. The Project's site design options avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of the oak trees. The IS/MND prepared for the Project considered these improvements and recommends a mitigation measure requiring, among several items, a professional arborist to monitor work conducted within the dripline of the oaks to minimize the potential for root damage. This mitigation measure is included as a condition of approval for the Project.

### *Existing Land Use Compatibility*

The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties and a small grouping of light industrial, retail, and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, senior apartments, townhomes, and single-family residences in Atherton Ranch.

The Project's design generally reflects the scale and form of the Victorian townhomes at Atherton Ranch and presents a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and nearby Victorian townhomes at Atherton Ranch to the west. Other improvements enhancing the Project's compatibility with surrounding development include:

- Site design options that are well organized and thoughtfully orient new development on key focal areas including internal landscape spaces and pedestrian pathways, the private park at Atherton Ranch, and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard.
- A generous setback (26.5-feet) from Redwood Boulevard, creating an appropriate transition from public space (sidewalk) to semi-private landscaped spaces and private courtyards.
- An inviting a plaza space at Redwood Boulevard connecting to an east to west oriented pedestrian spine ending at Project's western boundary.
- Two landscaped courtyards offering gathering space for future residents and offering view corridors from Ranch Drive and Pinheiro Circle.
- A park space featuring two children's play structures and outdoor seating space.
- The townhome units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings, helping to reduce the appearance of building mass, bringing a sense of activity to the park and streets, and offering additional outdoor use space for future residents.

Based on the elements noted above and those discussed earlier for finding B. above, the Project's overall design will integrate well with the existing Atherton Ranch neighborhood.

### *Future Land Use Compatibility*

Construction of the Project would complete development of the Atherton Ranch Master Plan area. Accordingly, no future development or changes in land use are expected to occur in the Master Plan area.

Future development in the project vicinity is most likely to occur on the commercially designated lands along the east side of Redwood Boulevard. This particular area is known as the North Redwood Corridor and is the subject of focus area being considered in the draft General Plan 2035. The North Redwood Corridor focus area expects a variety of retail and service commercial land uses being developed on vacant properties and lands currently being used for commercial industrial activities. Future uses may include retail outlets, restaurants, hotels, service commercial (e.g., dry cleaner) and similar uses. In addition, the North Redwood focus area anticipates development of the Project Site with multi-family housing.

The Project's proposed precise development plan amendment is considered to result in a project that is compatible with the expected commercial uses in the North Redwood Corridor focus area. In particular, the physical improvements described for the Project are limited to the Project Site and immediately adjacent portions of the public right-of-way and would not affect the ability to redevelop any of the other properties in the North Redwood Corridor focus area.

### *Street & Pedestrian System*

The CEQA IS/MND prepared for the Project analyzed the capacity of the local roadway network and its ability to handle the new vehicle trips generate by the proposed residential and retail uses at the Project Site. This analysis includes consideration of roadway width and intersection design and integration with pedestrian and bicycle facilities. The IS/MND concluded the local roadway system has sufficient capacity to accommodate existing and future traffic with the addition of new vehicle trips associated with the Project. However, the IS/MND observed the Project could result in an increased traffic hazard due to insufficient vehicle queuing capacity in the existing eastbound left-turn pocket on Ranch Drive. The IS/MND recommends a mitigation measure requiring restriping of Ranch Drive to eliminate the existing westbound left-turn pocket and extending the eastbound left-turn pocket to provide a minimum 50-feet of vehicle storage capacity. Implementation of this mitigation measure would avoid the potential traffic safety hazard by providing adequate vehicle queuing capacity. Otherwise, the Project's does not adversely the street system or its integrated bicycle and pedestrian amenities.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, building height/massing, and architectural and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architectural and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate height/mass, and generally acceptable architectural and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, including the Victorian townhomes at Atherton Ranch. The Design Review Commission supported the common outdoor spaces and amenities provided for residents, as well as the emphasis on pedestrian connectivity through the Project Site. The Design Review Commission’s recommendation was based on the required findings for Design Review and applicable design related policies of the Novato General Plan.

**Section 4. Precise Development Plan Recommendation**

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission does hereby recommend the City Council approve amending the Atherton Ranch Precise Development Plan to rescind all references to the “Commercial Area” at Atherton Ranch as described in City Council Resolution No. 120-00 and replace such references with “Atherton Place” based on the text attached hereto as Exhibit A and incorporated herein by reference, and the exhibits consisting of the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017, based on the findings set forth herein and Exhibit B and subject to the conditions of approval set forth in Exhibit C, attached hereto and incorporated herein by reference

**Section 5. Design Review Recommendation**

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission does hereby recommend the City Council approve the Design Review for the Project, based on the findings set forth herein and Exhibit B and subject to the conditions of approval presented in Exhibit C, attached hereto and incorporated herein by reference.

**Section 6. Conditions of Approval and Limitations**

The Project shall comply with all conditions of approval specified in Exhibit C attached hereto.

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 - Atherton Ranch Precise Development Plan Amendments

Exhibit B - Novato General Plan & Master Plan Consistency Findings

Exhibit C - Atherton Place Precise Development Plan & Design Review Conditions of Approval

Ref: 10702M



## **EXHIBIT A**

### **ATHERTON PLACE**

#### **ATHERTON RANCH PRECISE DEVELOPMENT PLAN AMENDMENTS**

All text and associated graphics addressing commercial development on Parcels C and D of the Atherton Ranch Master Plan area, referred to as “Commercial Area” in the Atherton Ranch Precise Development Plan (City of Novato Resolution No. 120-00) is hereby replaced with the following text and referenced graphics addressing Atherton Place (“Project”):

##### Residential Condominiums

1. Maximum Number of Residential Condominiums: 50 Units
2. Unit Size Range: 1,521 to 2,033 square-feet
3. Minimum Parking Required:
  - a. 2.0 spaces per two-bedroom unit;
  - b. 2.2 spaces per three- and four-bedroom unit;
  - c. 1.0 unassigned guest parking space for each three condominium units\*
  - d. 8.0 parking spaces shared with shared with the Nova-Ro III Senior Apartments

Total Required Minimum Residential Parking: 132 parking stalls, of which 100 shall be located in two-car garages for each condominium unit. Garages shall not be converted or modified in any manner that prevents the provision of two, ten (10) foot wide by twenty (20) foot deep parking stalls.

4. Minimum Setback Requirements. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
5. Accessory structures (e.g., sheds, trellises, patio cover) shall not be permitted for individual residential condominiums.
6. Accessory dwelling units and junior accessory dwelling units shall not be permitted.

##### Commercial Condominium

1. Maximum Number of Commercial Condominiums: 1 unit
2. Maximum Unit Size: 1,340 square-feet
3. Minimum On-Site Parking Required. One (1) parking space per 200 square-feet of floor area. Total required minimum on-site commercial parking: 7 parking stalls.

4. Minimum Setback Requirements. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.

#### Common Area Parcel

1. Common accessory structures (e.g., sheds, trellises, patio cover) serving the Project may be located in common areas pursuant to Novato Municipal Code Section 19.34.032, as may be amended. Accessory structures shall be subject to the setback requirements specified for the Mixed Use (MU) Zoning District, as may be amended, or as specified in Novato Municipal Code Section 19.34.032.
2. Accessory structures serving individual condominiums shall not be allowed in common areas.
3. Any fencing placed along the Project's boundary with the private park easement held by the Atherton Ranch Homeowners' Association shall be a maximum of four-feet high and of a split rail or other open picket design. If such fencing is installed, then signs shall be placed thereon indicating that access and use of the private park is for Atherton Ranch residents only.

#### General Requirements

1. Minimum Parcel Size and Condominium Locations. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.
2. Maximum Building Coverage: 40% of total project area.
3. Maximum Building Height: 40-feet measured from finished grade.
4. Minimum Amount of Landscaping. As depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.

#### Post Approval Procedures

The Project shall be subject to the post-approval and amendment procedures specified in Novato Municipal Code Sections 19.42.060.G. and H., as may be amended from time to time.

## **EXHIBIT B**

### **ATHERTON PLACE**

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

The following discussion lists policies of the 1996 Novato General Plan and amended Atherton Ranch Master Plan applicable to Atherton Place 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 Site is assigned the Mixed-Use (MU) land use designation of the 1996 Novato General Plan. The MU designation permits the combination of commercial uses (e.g., retail, offices, personal services) and residential units; housing development may only be permitted in conjunction with a qualifying commercial use.

The MU designation addresses development intensity via floor area ratio (FAR), which includes habitable floor area and excludes non-habitable garage areas. The maximum FAR for commercial development is 0.40 and up to 0.80 when housing is incorporated into a project. The MU designation does not specify a maximum or minimum ratio of commercial area to housing space.

The Project includes 50 residential condominiums with a cumulative floor area of 90,823 square-feet and a single commercial condominium space of 1,340 square-feet. The following land uses are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those

enumerated and will not be obnoxious or detrimental to the attached and nearby residences. Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

These activities are consistent with the types of land uses permitted by the MU land use designation.

The Project proposes a cumulative floor area of 92,163 square-feet. This intensity of development represents an FAR of 0.59 based on the Project Site's area of 3.60 acres. This FAR level falls under the maximum FAR of 0.80 offered to mixed-use projects.

Based on the facts above, the Project is hereby found to be consistent with and advances 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 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 and services addressing potable and recycled water, sewer, emergency medical/fire, and stormwater control. Each agency has provided conditions of approval intended to insure the Project provides adequate infrastructure and has confirmed the ability to serve the Project. These conditions of approval are to be adopted for the Project and implemented through the construction design and physical construction phases of the Project. These agencies did not identify any constraints to serving the Project on an individual or cumulative basis.

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 land use, development intensity, and design of the Project. The CEQA IS/MND also analyzed the demand for public parks and other government service facilities. The CEQA 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 above and the analyses, impact findings, and mitigation measures specified in the CEQA IS/MND, 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.

TR Program 4.1: Establish traffic Level of Service standards as follows:

- a. At intersections with signals or four-way stop signs: operation at LOS D
- b. At intersections with stop signs on side streets only: operation at LOS E.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential traffic implications of constructing and operating the Project at the Project Site both individually and cumulatively. The CEQA IS/MND concluded the Project's incremental addition of 23 AM and 31 PM peak hour trips to existing traffic conditions would not cause the intersections serving the Project Site to exceed the level of service (LOS) thresholds established by TR Program 4.1 individually; all intersections would operate at LOS B or better.

Under cumulative (future) conditions, the intersections serving the Project are projected to operate at LOS F in an unmitigated condition. The CEQA IS/MND observed the Project would pay development impact fees that would be applied to capacity enhancements at the Atherton/San Marin/US 101 interchange and reimburse improvements already made to the intersection of Olive Avenue and Redwood Boulevard. Improvements to these intersections are expected to maintain an acceptable LOS under cumulative development conditions.

The CEQA IS/MND notes the intersection of Golden Gate Place, Ranch Drive, and Redwood Boulevard, operating at LOS A with and without the Project in the near term, would operate at LOS F under cumulative development conditions. The CEQA IS/MND indicates the Project does not contribute to this impact. Instead, this impact is attributed to the development of new retail outlets on the east side of Redwood Boulevard between Olive Avenue and San Marin Drive. The CEQA IS/MND indicates this particular intersection would operate acceptably at LOS C under future conditions if signalized. This matter is being addressed through Novato's ongoing General Plan update, which includes a CEQA assessment addressing future retail development in the North Redwood Corridor.

Based on the findings of the traffic analysis presented in the CEQA IS/MND, the Project is hereby found to be consistent with and advance Transportation Policy 4.

TR Policy 11 Traffic Safety. Improve the safety of the roadway system.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for safety hazards related to roadway operations and project design, as well as cumulative impacts on roadway infrastructure. The CEQA IS/MND concluded the Project would not provide sufficient vehicle queuing capacity in the eastbound left-turn pocket on Ranch Drive, representing a potential traffic hazard. Mitigation Measure TRAN-1 is proposed to avoid this hazard by requiring restriping of Ranch Drive to eliminate an existing westbound turn pocket on Ranch Drive and extending the eastbound left-turn pocket to provide a minimum of 50-feet of vehicle queuing space. No other traffic safety issues were identified for the Project.

Based on the facts above, the Project is hereby found to be consistent with TR Policy 11.

## ***HOUSING***

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.

HO Policy 3.2 Design that Fits into the Neighborhood Context. It is the City's intent that neighborhood identity and sense of community will be enhanced by designing all new housing to have a transition of scale and compatibility in form to the surrounding area.

Facts in Support: The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project's primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project's primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.

A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, building height/massing, and architecture and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architecture and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission's recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.

Based on the facts above, the Project is hereby considered to be consistent with CI Policy1 and HO Policy 3.2.

HO Policy 3.3 Housing Design Principles. The intent in the design of new housing is to provide stable, safe, and attractive neighborhoods through high quality architecture, site planning, and amenities that address the following principles:

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story setbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.

Facts in Support: The Project's architectural design minimizes the appearance of building height and mass by including the following:

- roofs of varying heights and planes providing vertical articulation
- window bays with shed roof dormers creating horizontal and vertical articulation
- consistent rhythm of window with large window openings avoiding large uninterrupted wall planes
- covered porches and window bays on the side elevation of end units creating four sided architectural interest
- variation of finish materials, including a mix of stucco, shingle, and horizontal and vertical siding, avoiding the monotony of a single siding type

- varying garage door designs to avoid a monotonous rhythm of blank spaces on rear elevations of the condominiums
  - decorative bracketing, corbels, and column features adding relief and architectural interest to the exterior elevations.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.

Facts in Support: The Project Site fronts on Redwood Boulevard, Ranch Drive, and Pinheiro Circle. Redwood Boulevard is an arterial street with a commercial pattern of development. The condominium buildings at Redwood Boulevard are located approximately 26.5-feet away from the back of sidewalk along this roadway, providing a generous and appropriate transition from public space (sidewalk) to semi-private landscaped spaces and private courtyards.

Ranch Drive and Pinheiro Circle are residential streets and are defined by existing residences with front entries and porches facing the street. The Project has several condominium units with side elevations adjoining Ranch Drive and Pinheiro Circle. The side elevations of these condominiums feature a wrap-around porch and window bays giving the appearance of a traditional front elevation. This design treatment relates well to Pinheiro Circle and Ranch Drive and is consistent with the pattern of development in Atherton Ranch.

The Project does not present any potential privacy issues with nearby residences since there is substantial distance between proposed and existing residential units.

- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.

Facts in Support: The Project’s primary and alternative site designs orient new development on internal landscape spaces and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard. In addition, the project includes a strong pedestrian orientation with connectivity to internal outdoor spaces, guest parking, and the surrounding street system. Key focal areas and pedestrian amenities include:

- a plaza space at Redwood Boulevard
- two interior landscaped courtyard spaces
- a central pedestrian spine running east and west from the plaza at Redwood Boulevard to the outdoor use area between Buildings 1 and 12
- a pedestrian pathway connecting to the main guest parking areas within the project and the interior courtyard areas



- an outdoor seating area connected to the commercial tenant space
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

Facts in Support: The garages and guest parking stalls in the Project would be accessed by internal drive aisles. Several garages would be visible from Pinheiro Circle and Ranch Drive. However, these garages do not directly front onto these streets and would not dominate the street facing façades of the condominium units. The Project includes a variety of garage door designs to avoid a monotonous pattern of doors.

The majority of the Project’s surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the Project or the larger Atherton Ranch development.

Based on the facts above, the Project’s primary and alternative site design and architecture and landscape concept are hereby found to be consistent with HO Policy 3.3.

HO Policy 7.2 Variety of Housing Choices. In response to the broad range of housing needs in Novato, the City will strive to achieve a mix of housing types, densities, affordability levels and designs. The City will work with developers of ‘non-traditional’ and innovative housing approaches relating to the design, construction and types of housing that meet local housing needs, which may include, but not be limited to, provision of the following types of housing at varying affordability levels:

- a. Owner and renter housing
- b. Small and large units
- c. Single and multi-family housing
- d. Housing close to jobs and transit
- e. Mixed use housing
- f. Supportive housing
- g. Single Room Occupancy units (SRO’s)
- h. Shared living opportunities and co-housing
- i. Manufactured housing
- j. Self-help or “sweat equity” housing
- k. Cooperatives or joint ventures
- l. Assisted living

Facts in Support: The Project provides a mix of medium to large residential condominiums, a multi-family housing type that is in demand in Novato. Accordingly, the Project is hereby found to be consistent with HO Policy 7.2.

## ***ENVIRONMENT***

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

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.

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: 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 discussed in the CEQA IS/MND, the Project is required to comply with provisions of the National Pollution Discharge Elimination System (NPDES) and the State Water Resources Control Board's Phase II Small Municipal Separate Storm Sewer Systems Permit (MS4s Permit).

The NPDES program requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential adverse impacts to surface water quality through the Project's construction period. The SWPPP must include Best Management Practices (BMPs) addressing erosion and sediment control, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

The MS4s permit program requires the development and implementation of a post-construction stormwater control plan (SCP) that incorporates low impact development elements to maintain a project site's pre-development stormwater run-off rates and volumes. The requirements of the MS4s permit are managed by the Marin County Stormwater Pollution Prevention Program (MCSTOPP) with guidance via a design manual prepared by the Bay Area Stormwater Management Agencies Association (BASMAA). Low impact design elements include the use of permeable pavements and bioretention areas where stormwater run-off can be naturally filtered prior to entering the public stormwater drainage system.

The project developer has submitted a preliminary stormwater control plan for the Project. The preliminary stormwater control plan has been reviewed by the Novato Public Works Department, which has determined the preliminary plan demonstrates the Project's stormwater drainage design can meet the requirements of the MS4s permit. The Public Works Department has applied

conditions of approval requiring the applicant to prepare a final SCP, as well as a SWPPP and Erosion and Sediment Control Plan. These documents will be submitted with the improvement plans prepared for the construction phase of the Project.

Compliance with the programs and conditions of approval noted above would ensure the Project protects water resources consistent with EN Policies 7, 35, and 37.

EN Policy 19 Special Status Species. Cooperate with State and Federal Agencies to ensure that development does not substantially adversely affect special status species appearing on the State or Federal list for any rare, endangered, or threatened species. The environmental documentation will screen for the Federal Candidate Species, plants listed on lists 1A, 1B, or 2 of the California Native Plant Society (CNPS), inventory of rare and endangered vascular plants of California and animals designated by CDFG as species of special concern or their current equivalent.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in the CEQA IS/MND, the Project Site does not host sensitive natural communities or native populations of plants or animals. However, the CEQA IS/MND observed the Project could potentially impact birds and/or raptors nesting in trees located on the Project Site. Given this circumstance the CEQA IS/MND recommends implementation of mitigation measure BIOLOGY-1.

Mitigation Measure BIOLOGY-1 is intended to reduce and/or avoid the Project's potential to disturb nesting birds during construction of the Project. Mitigation Measure BIOLOGY-1 requires pre-construction surveys for nesting birds no more than 7-days prior to the commencement of grading or vegetation removal. Mitigation Measure BIOLOGY-1 provides specific steps to be followed in the event nesting birds are located, including consultation with the California Department of Fish and Wildlife and the establishment of appropriate buffer areas within which construction work would not be permitted until young birds have fledged.

Based on the findings of the CEQA IS/MND and implementation of the noted mitigation measure, the Project is hereby found to be consistent with and advance EN Policy 19.

EN Policy 25 Trees on Private Property. Encourage and, where appropriate, require actions by private property owners to protect the health of native woodlands and trees.

EN Policy 26 Trees in New Development. Require that the site planning, construction and maintenance of development preserve existing healthy trees and native vegetation on site to the maximum extent feasible. Replace trees and vegetation not able to be saved.

Facts in Support: The Project Site hosts a stand of heritage size oak trees along Pinheiro Circle. The Project's primary and alternate site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of certain oak trees. The CEQA IS/MND prepared for the

Project analyzed these improvements and recommends Mitigation Measure BIOLOGY-2 to minimize potential damage to tree roots resulting from the noted encroachments.

Mitigation Measure BIOLOGY-2 requires a variety of steps to prevent damage to regulated trees, including, but not limited to: a) defining a tree protection zone for each regulated tree (typically 18- to 20-feet in all directions from tree trunk); b) supervision of work by a consulting arborist; and c) the use of permeable pavers where paved features must encroach into the tree protection zone.

Compliance with Mitigation Measure BIOLOGY-2 would minimize the possibility of damaging the roots of the existing oak trees along Pinheiro Circle consistent with EN Policies 25 and 26.

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 observations 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: The CEQA IS/MND prepared for the Project analyzed the potential effect of the development on air quality. The CEQA IS/MND conclude the project could generate dust and toxic air contaminants (TACs) consisting of diesel particulate matter that may negatively impact the environment. Given this circumstance the CEQA IS/MND recommends Mitigation Measures AIR-1 and AIR-2 to minimize dust and TACs from construction equipment exhaust.

Mitigation Measure AIR-1 is proposed to avoid the release of fugitive dust during construction of the Project via implementation of best management practices recommended by the Bay Area Air Quality Management District (BAAQMD), including watering exposed soils, tarping soil stockpiles, limiting construction vehicle speeds, and posting contact information to report dust complaints. These actions would protect local air quality by minimizing the potential for construction related dust.

Mitigation Measure AIR-2 is proposed to reduce toxic air contaminants resulting from the operation of diesel powered equipment during construction of the Project. Mitigation Measure AIR-2 requires the developer to implement Mitigation Measure AIR-1 and also ensure that construction equipment is selected to minimize exhaust emissions, such as operating diesel-powered off-road equipment meeting U.S. Environmental Protection Agency (EPA) particulate

matter emissions standards for Tier 4 engines or equivalent and/or the use of California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel). Compliance with these provision would protect local air quality by minimizing diesel exhaust emissions.

Based on the findings of the CEQA IS/MND and implementation of Mitigation Measures AIR-1 and AIR-2, the Project is hereby found to be consistent with EN Policy 34

### ***SAFETY & NOISE***

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

SF Policy 3 Slope and Soil Instability. Continue to enforce existing regulations and procedures to identify potential hazards relating to geologic and soils conditions.

Facts in Support: The CEQA IS/MND prepared for the Project considered the soil and seismic hazards potentially affecting structures on the Project Site. The CEQA IS/MND determined the Project Site is subject to significant hazards as a result of strong seismic ground shaking. Given this circumstance, the CEQA IS/MND recommends Mitigation Measure GEOLOGY-1 to reduce the risk of loss, injury, or death related to strong seismic ground shaking. Mitigation Measure GEOLOGY-1 requires the Project to be designed and constructed in accordance with the California Building Code and recommendations of the Project's design-level geotechnical report, addressing such items as over-excavation of weak soils, the placement and compaction of engineered fill soils, and foundation and drainage system design.

Implementation of Mitigation Measure GEOLOGY-1 would reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards and site specific soil conditions consistent with SF Policies 1 and 3.

SF Policy 9 Storm Drainage System. Maintain unobstructed water flow in the storm drainage system.

Facts in Support: The project developer submitted a preliminary drainage plan for the Project. The preliminary drainage plan has been reviewed by the Novato Public Works Department to determine if the existing public stormwater drainage system has sufficient capacity to accommodate the Project's stormwater run-off. The preliminary drainage plan was found to demonstrate there is adequate capacity in the public drainage system to accommodate the Project. The Public Works Department has applied a condition of approval requiring a final drainage plan for the Project. The final storm drainage plan would be submitted with the improvement plans for the construction phase of the Project.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 9.

SF Policy 16 Fire Risk in New Development. Review all development proposals for fire risk, and require mitigation measures to reduce the probability of fire.

Facts in Support: The Project was referred to the Novato Fire Protection District for review and comment on emergency medical and fire safety issues. The Fire District indicated it was satisfied with the access lanes, parking configuration, and points of entry for the Project. However, the Fire District did recommend conditions of approval to ensure the Project's design detail plans include key fire and life safety features as required by the District's adopted standards. The Fire District will review the construction level design plans prepared for the Project to ensure the new condominiums meet the District's standards.

As described in the Hazards and Hazardous Materials section of the CEQA IS/MND, the Project Site is not located in an area with high fire risk as mapped by the Novato Fire Protection District, and no mitigation is required to reduce the risk of wildland fire.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 16.

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.

SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

Facts in Support (SF Policy 37 & 38): The CEQA IS/MND prepared for the Project determined the residential units proposed along Redwood Boulevard would not meet the City's standard of 65 dBA  $L_{dn}$  for exterior noise levels at multi-family residential uses. Additionally, the residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) would not meet the City of Novato's standard of 45 dBA  $L_{dn}$  for interior noise levels with standard construction methods. Given these findings, Mitigation Measure NOISE-1 is recommended in the CEQA IS/MND to reduce exterior noise levels to 65 dBA  $L_{dn}$  and interior noise to 45 dBA  $L_{dn}$ .

Mitigation Measure NOISE-1 requires a 4-foot high solid noise barrier (fence) to reduce exterior noise in the private patios of Buildings 4 and 9 to an acceptable level of 63 dBA  $L_{dn}$ . In addition, Mitigation Measure NOISE-1 requires a qualified acoustical consultant to review the final site plan, building elevations, and floor plans of the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) prior to construction to recommend building treatments to reduce interior noise levels to 45 dBA  $L_{dn}$ . Such treatments may include sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Mitigation Measure NOISE-1 also requires a forced-air mechanical ventilation system (air conditioning) for Buildings 4 and 9 so that windows may be kept closed at the occupant's discretion to control interior noise.

As described in the Noise Section of the CEQA IS/MND, the Project would cause a temporary increase in ambient noise levels during construction activities. Accordingly, Mitigation Measure NOISE-2 is proposed to minimize noise disturbances due to construction activities. Mitigation Measure NOISE-2 requires the implementation of a variety of procedures to minimize construction noise, including:

- Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be

allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.

- All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- “Quiet” air compressors and other stationary noise sources shall be used where technology exists.
- Noise from construction workers’ radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
- The developer shall issue a written notice to all businesses, residences, and other noise sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
- In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.”
- A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

Based on the facts above, the Project is considered to be consistent with SF Policies 37 and 38.

### ***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 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. The Water District requested the Project connect to its recycled water main located in Redwood Boulevard and comply with District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 addresses plumbing fixtures, plant selection, and irrigation features.

The Project's conceptual landscape plan details a plant list predominantly comprised of low water use trees, shrubs, and groundcovers. The specifics of the Project's irrigation and plumbing systems will be developed when construction detail plans are prepared for the development. The Project's construction detail plans will be reviewed to determine compliance with the District's water conservation ordinance.

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

### ***COMMUNITY IDENTITY***

CI Policy 7 Landscaping. Encourage attractive native and drought-tolerant, low-maintenance landscaping responsive to fire hazards.

Facts in Support: The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. In this instance, the Project proposes an extensive plant list comprised predominantly of low water use species with the balance of plants requiring medium water use. In addition, the Project will connect into the Water District's recycled water line for landscape irrigation. The combination of low water use plants and recycled water for irrigation will minimize water use for landscaping purposes. See also the discussion for SF Policy 16 above.

Based on the facts above, the Project is hereby found to be consistent with CI Policy 7.

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

Facts in Support: All utilities serving the Project will be placed underground 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 for the Project is provided via two-car garages attached to each residential condominium unit and surface parking stalls for guests and tenants/patrons of the retail condominium space. The majority of the surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although



visible from surrounding streets, will not dominate the streetscape or detract from the project or the larger Atherton Ranch development.

Based on the facts 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's primary site design would provide 50,827 square-feet (1.16 acres) of usable outdoor space, including:

Ranch Drive Garden (between Bldgs. 2 & 3) - 4,172 sq. ft.  
Pinheiro Circle Garden (between Bldgs. 10 & 11) - 3,813 sq. ft.  
Atherton Village Green (between Bldgs. 9 & 4) - 3,911 sq. ft.  
The Promenade (between Bldgs. 5, 6, 7, & 8) – 6,326 sq. ft.  
The Park (between Bldgs. 1 & 12; Atherton Ranch Park Easement) – 20,888 sq. ft.  
Private Residential Patios – 11,717 sq. ft.

The Project's alternative site design would provide 43,409 square-feet (.99 acres) of usable outdoor space, including all of the features listed above and excluding improvements within the Atherton Ranch Home Owners' Association (Atherton Ranch HOA) park easement (approximately 7,418 sq. ft.).

The figures above do not include the undeveloped area surrounding the heritage oak trees along Pinheiro Circle.

Both site designs include the addition of two children's play structures. These features were added to the Project at the request of the Atherton Ranch HOA. This request was based on concerns the Project did not provide sufficient play features and would therefore lead to increased use of the existing play structures in the private park at Atherton Ranch.

The usable open space provided by the primary site design and alternative site plan provide two-and-a-half to two times the amount of open space area required for multi-family residential projects by the Novato Municipal Code. The Novato Municipal Code does not require the provision of children's play structures in outdoor use areas.

Based on the observations 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 features a clearly defined pedestrian circulation system with each residential unit connected to a walkway offering a path of travel to outdoor space amenities, surface parking areas, and the surrounding street system. Notable pedestrian amenities include the promenade and connecting pathways between Buildings 5, 6, 7, and 8 and the generously wide sidewalk offered along Redwood Boulevard. Based on these features, 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: The CEQA IS/MND prepared for the Project indicates there are no known archaeological or paleontological resources at the Project Site. Regardless, there remains a possibility that unknown, buried prehistoric or paleontological resources could be encountered or damaged during construction of the Project. Given this circumstance, the CEQA IS/MND recommends implementation of Mitigation Measures CULTURAL-1a, CULTURAL-1b, CULTURAL 2, and CULTURAL-3 to avoid impacts to such resources if encountered during construction.

Mitigation Measures CULTURAL-1a and CULTURAL-1b are proposed to ensure the protection of unknown, buried cultural resources. Mitigation Measure CUTLURAL-1a requires the applicant to retain a qualified archeological consultant to develop and implement an archeological monitoring program to ensure any archeological resources uncovered during site preparation and construction are identified and appropriately treated. Mitigation Measure CULTURAL-1b requires all work to be stopped within 50-feet of a suspected archeological resource and review of any such a find by a qualified archeologist.

Mitigation Measure CULTURAL-2 is intended to ensure the protection of paleontological resources. Mitigation Measure CULTURAL-2 stipulates that if a suspected fossil is encountered, 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, a treatment plan shall be developed by a qualified paleontologist.

Mitigation Measure CULTURAL-3 is proposed to ensure the protection of unknown, buried human remains. Mitigation Measure CULTURAL-3 requires compliance with the uniform procedures of Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code. The cited code sections specify the procedures that shall be implemented should buried human remains be encountered during project construction, including notifying the county coroner within 24-hours of discovery and contacting the Native American Heritage Commission should the remains be determined to be Native American. The most likely decedent of a deceased Native American or their representative shall then determine, in consultation with the property owner, treatment of the human remains.

Based on the facts above, the Project is not anticipated to have an adverse effect on archeological or paleontological resources and is hereby found to be consistent with CI Policy 30.

### **ATHERTON RANCH MASTER PLAN**

The Precise Development Plan amendments and Design Review, as depicted by the Project's plans, describe development of the Project Site consistent with the land use types and development intensity stated in the Atherton Ranch Master plan as amended. Given these facts, the Project's Precise Development Plan amendments and Design Review are hereby found to be consistent with the Atherton Ranch Master Plan as amended.

## **EXHIBIT C**

### **ATHERTON PLACE PRECISE DEVELOPMENT PLAN & DESIGN REVIEW**

#### **CONDITIONS OF APPROVAL**

The following conditions approval shall apply to the Precise Development Plan amendments and Design Review for Atherton Place:

1. The Precise Development Plan Amendment shall become valid only upon approval of the Master Plan amendment required for the Project by the City Council.
2. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's cost Base Fee System. Failure to pay said fees may results in the City withholding issuance of related building permit, certificate of occupancy or other entitlements.
3. The Precise Development Plan approval shall expire two years from the date of final City Council action on the Master Plan amendment required for the Project, within which time a final Design Review approval must be obtained. The Precise Development Plan and Design Review at issue herein shall remain valid as long as the final Design Review approval required for the Project is maintained.
4. The applicant, or any successor in interest to the Project, shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code Section 9-20.
5. The applicant, or any successor in interest to the Project, shall be subject to paying affordable housing in-lieu fees pursuant to City Council Ordinance No. 1406 and Resolution No. 120-03. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code City Council Ordinance No. 1406 and Resolution No. 120-03.
6. The applicant, or any successor in interest to the Project, shall prepare Codes, Covenants, and Restrictions (CC&R's) addressing the following:
  - a. Provisions for maintenance of structures with common walls and roofs.
  - b. Provisions restricting accessory and junior accessory dwelling units, residential accessory structures, or additions to the residential condominiums in the Project.
  - c. Creation of a parking management and enforcement program to ensure the availability of on-site parking for residents and guests, including provisions limiting the use of garages to the parking of vehicles.

- d. The City shall be noted as a third-party beneficiary to the CC&Rs, providing the right, but not the obligation, to enforce the CC&Rs or select provisions thereof.
- e. The CC&Rs shall note those sections of the CC&Rs requiring City consent to rescind or amend, including, but not limited to, measures addressing parking management and enforcement.
- f. The requirement for professional property management for a minimum of 2 years.

The CC&Rs shall be submitted to the to the City Engineer, Community Development Director, and City Attorney for review and approval prior to recordation.

- 7. The Project shall be constructed in accordance of the with the design plans, prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017, representing the approved Precise Development Plan for the Project and the conditions of approval stipulated herein. Minor modifications to the Project's site design, landscaping, or architecture may be considered and acted upon by the Community Development Director pursuant to Novato Municipal Code Section 19.42.060H.
- 8. The applicant, or any successor in interest, shall have the ability to construct the Project according to the alternative site plan included in the design plans, prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017, if agreement cannot be reached with the Atherton Ranch Homeowners' Association with respect to modification of the Association's exclusive private park easement to accommodate improvements serving the Project, as shown on the primary site plan, by the time of submittal of an application for a Final Map and accompanying improvement plans to the Novato Public Works Department.
- 9. The Project shall return to the Design Review Commission for a final design review action. The final design review address the final details of the Project's site design, architecture, landscaping, and public art component including, but not limited to:
  - a. Architectural detailing (e.g., window/door sizes, cornice treatments, railing materials, roof pitch, eave details, etc.);
  - b. Building finish materials and colors;
  - c. Tree and plant species and planting locations;
  - d. Location, height, and materials of any proposed perimeter fencing; and
  - e. Location, height, type, and style of site lighting, including parking lot lights.
- 10. The applicant, or any successor in interest to the Project, shall comply with the requirements of Novato's Art Program, Novato Municipal Code Division 19.21.

Mitigation Measures:

11. Mitigation Measure VISUAL-1: The applicant shall incorporate the following specifications into the proposed project:
  - a. All lighting shall be shielded so that lighting is cast downward and “spillover” is minimized.
  - b. Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.
  - c. Whenever possible, lighting for pathways shall be low path lighting.
  - d. All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.
  - e. Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.
  
12. Mitigation Measure AIR-1: During any construction-period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD) and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. 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.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - e. 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.
  - f. 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 California Code of Regulations [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.

- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - h. A publicly visible sign shall be posted listing the telephone number and person to contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.
13. Mitigation Measure AIR-2: The applicant shall implement Mitigation Measure AIR-1 and shall also ensure that construction equipment is selected to minimize emissions. Such equipment selection shall include the following:

All diesel-powered off-road equipment operating on the site for more than 2 days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction-period diesel particulate matter (DPM) emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement.

14. Mitigation Measure BIOLOGY-1: Any active bird nests in the vicinity of proposed vegetation removal and grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling grading and vegetation removal during the non-nesting period (September through February), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present, or that nesting has been completed as detailed below, shall be submitted to the City of Novato for review and approval prior to initiation of grading or vegetation removal during the nesting season. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following:
- a. If initial grubbing and grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of grading or vegetation removal to provide confirmation on presence or absence of active nests in the vicinity.
  - b. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the California Department of Fish and Wildlife (CDFW) and implemented to prevent nest abandonment. At a minimum, vegetation removal and grading in the vicinity of the nest shall be deferred until the young birds have fledged. A nest setback zone of at least 100 feet for raptors and 50 feet for loggerhead shrike and passerine birds shall be established, and all

construction-related disturbances shall be prohibited within the nest setback zone. The perimeter of the nest setback zone shall be fenced or adequately demarcated and construction personnel restricted from the area.

- c. If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest setback zone until a qualified biologist verifies either that a) the birds have not begun egg-laying and incubation, or b) the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.
  - d. A survey report of findings verifying that any young have fledged shall be submitted for review and approval by the City of Novato prior to initiation of grading or vegetation removal in the nest setback zone. Following approval by the City of Novato, grading, vegetation removal, and construction in the nest setback zone may proceed as proposed.
15. Mitigation Measure BIOLOGY-2: The project shall comply with Chapter XVII of the Novato Municipal Code. Compliance with the Municipal Code shall be achieved through adherence with the following provisions:
- a. Tree Preservation Guidelines contained in the Arborist Report (HortScience, 2016) shall be implemented to ensure adequate protection of trees to be preserved. This shall include adherence to specified design recommendations, pre-construction treatments and recommendations, and recommendations for tree protection during construction, and the project site plan and other improvement plans shall be revised to reflect minimum design recommendations. Design recommendations include relocating driveways, walking paths, landscape features, and careful controls on any facilities that would require excavation at least 20 feet from the trunk of Trees #168 to #178 and 18 feet from the trunk of Tree #167.
  - b. A Tree Protection Zone (TPZ), defining the limits of construction activity required for successful tree preservation, shall be established around all trees to be retained. Specific features shall include the following:
    - For Trees #168 to #178, the TPZ shall be 20 feet in all directions.
    - For Tree #167, the TPZ shall be 18 feet in the area of the west vehicle access and 20 feet in other areas surrounding the tree.
    - For Trees #155 to #166 and #187, the TPZ shall be established in two phases:
      - During demolition, grading, and building construction, the TPZ shall be 10 feet in all directions. A continuous fence 10 feet from the tree trunks may also be used to separate construction on the site from these trees.
      - During installation of the sidewalk, tree protection fencing shall be placed no closer than 2 feet from the trunk.

- c. Temporary construction fencing shall remain in place around the TPZ for the duration of construction. Fencing shall not be moved unless under supervision of the consulting arborist, and no grading, excavation, construction, or storage of materials shall occur within that zone.
- d. Irrigation systems shall be designed so that no trenching severs roots larger than 1 inch in diameter within the TPZ.
- e. Landscape treatment within the TPZ for Trees #167 to #178 shall be compatible with the requirements of native oak. No irrigation system shall be installed within the tree driplines.
- f. The two parking stalls and pedestrian path proposed within the TPZ for Trees #176 and #177 shall be designed and installed to minimize any damage to the tree root zone of these trees. The parking stalls and path shall preferably be designed using decomposed granite or some other permeable paving, and the design shall be reviewed and approved by the consulting arborist. Special construction techniques such as advanced hand digging to determine root locations, controlled root-cutting, and other methods to limit damage to the trees, and all work performed within the TPZ, shall be monitored by the consulting arborist.
- g. Underground services including utilities, sub-drains, water, or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury, with all work supervised by the consulting arborist.
- h. Any herbicides placed under paving materials shall be safe for use around trees and labeled for that use.
- i. Lime shall not be used within 50 feet of any tree or subsurface treatment or other purposes. Lime is toxic to tree roots.
- j. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. As trees withdraw water from the soil, expansive soils may shrink within the root area.
- k. All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed and retained.
- l. Where avoidance of a regulated tree, such as the two valley oaks growing in the central portion of the site (Trees #179 and #180), is not feasible, replacement tree plantings shall be provided at a minimum 3:1 ratio as part of the final landscape plan and in compliance with the City's Municipal Code.

16. Mitigation Measure CULTURAL-1a (Construction Monitoring): Based on the reasonable potential that archaeological resources may be present within the project site, the project applicant shall retain the services of a qualified archeological consultant who shall, in



consultation with the City of Novato, devise and carry out an archeological monitoring program. The goal of the monitoring program shall be to ensure that archaeological resources uncovered during site preparation and construction are identified and appropriately treated.

The project applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological resources and shall include the following directive in appropriate construction documents:

If prehistoric or historical archaeological deposits are discovered during project activities, all work within 50 feet of the discovery shall be redirected. The project applicant shall notify the City of Novato Planning Division. A qualified archaeologist shall also be contacted to assess the situation and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Archaeological resources that may be encountered include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian or chert toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; artifact-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other material.

17. Mitigation Measure CULTURAL-1b (Post-Review Discovery): If deposits of prehistoric or historical archaeological materials are discovered during project activities, all work within 50 feet of the discovery shall be redirected. Project personnel shall not collect or move any archaeological materials. A qualified archaeologist shall be contacted to assess the situation and consult with the City as appropriate. The archaeologist shall make recommendations to the City for the treatment of the discovery.

Adverse effects on archaeological deposits shall be avoided by project activities to the degree feasible. The City shall consult with the project archaeologist and the project applicant to determine if avoidance is feasible. If the City determines that avoidance is not feasible, the archaeological deposit shall be evaluated to determine if it constitutes a historical resource (CEQA Guidelines Section 15064.5(c)(1)) or unique archaeological resource (Public Resources Code Section 21083.2) for the purposes of the California Environmental Quality Act (CEQA). Native American archaeological resources shall be evaluated in consultation with the Federated Indians of Graton Rancheria (FIGR), the federally recognized tribe whose area of traditional authority includes the project site.

If the deposit is found to be a historical resource or unique archaeological resource, adverse effects must be avoided if feasible or mitigated. Construction may be delayed while the archaeological investigations described herein are carried out if this is the only feasible means to reduce potential effects on an important archaeological resource to a less-than-significant level. Merely recovering artifacts and storing them does not mitigate impacts to a less-than-significant level. Mitigation may include, but is not necessarily limited to,

scientific excavation of the deposit in accordance with a formally constituted data recovery plan (CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; a DPR 523 form filed at the Northwest Information Center (NWIC); and, if appropriate, accessioning of the archaeological material and technical report to an archaeological repository. A public outreach product may also be appropriate, at the discretion of the City Planning Division. The archaeologist shall submit the report to the NWIC on completion of the evaluation and mitigation program.

18. Mitigation Measure CULTURAL-2: If paleontological resources (fossils) are encountered during pre-construction or construction activities, work shall be halted immediately within 50 feet of the discovery, which shall be protected in place. The City of Novato Planning Division shall be notified immediately and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontologist determines that the discovery is an important resource, the paleontologist shall, in consultation with the City Planning Division, devise and carry out a treatment plan for the resources. Appropriate actions may include avoidance, preservation in place, and/or scientific excavation, and documentation. The plan shall include provision for a written report documenting the find and describing steps taken to evaluate it and treat its important values.

The project applicant shall inform its contractor of the sensitivity of the project site for paleontological resources. The following directive shall be included in appropriate construction documents:

This construction site may contain fossils—the petrified remains of ancient plants or animals. If fossils are encountered during construction, all ground-disturbing activities within 50 feet shall be redirected and the project applicant shall notify the City of Novato Planning Division. A qualified paleontologist shall also be contacted to assess the situation and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any fossils or their surrounding soil. Several types of fossils may be present including snails, clam and oyster shells, and sponges; as well as fish, reptile, and mammal bones.

19. Mitigation Measure CULTURAL-3: If human remains are discovered during project activities, the procedures outlined in Section 7050.5 of the California Health and Safety Code shall be implemented. Work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and offer recommendations. Project personnel shall not collect or move any human remains and associated materials.

If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) who has 48 hours to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. If the MLD fails to make a recommendation, or the

landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials at a location not subject to further subsurface disturbance.

The project applicant shall inform its contractor(s) of the appropriate procedures if human remains are encountered on the project site. The following directive shall be included in the appropriate construction documents:

If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, the project applicant shall notify the City of Novato Planning Division of the discovery, and a qualified archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

20. Mitigation Measure GEOLOGY-1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical report shall be prepared and submitted to the City of Novato for review and approval in accordance with adopted City standards. The structural designs shall adhere to the 2016 California Building Code (CBC), or more recent codes as applicable. Examples of the kinds of measures typical to meet these requirements include seismic performance standards; foundation design requirements; site preparation, fill, and compaction specifications; drainage requirements; and appropriate safety factors. The report shall also include a construction monitoring plan describing the timing and nature of inspections during construction to ensure that recommendations in the geotechnical report are implemented during project development. All design criteria and specifications set forth in the design-level geotechnical report, including construction inspection and monitoring requirements, shall be implemented as a condition of permit approval.
21. Mitigation Measure NOISE-1: The following measures shall be incorporated into the proposed project to reduce exterior noise levels to 65 dBA Ldn or below and interior noise levels to 45 dBA Ldn or below:
  - a. A solid 4-foot-high noise barrier enclosing the private ground-level courtyards at Buildings 4 and 9 along Redwood Boulevard, such as a solid 4-foot-high wood fence, shall be provided to reduce exterior noise levels. The barrier shall not have cracks or gaps in the face of the barrier or at its base and shall have a surface weight of at least 3 pounds per square foot. The gate in the fence shall be solid and have minimal cracks or gaps at its base or jamb. This barrier would provide up to 3 dBA of noise reduction from traffic noise levels along Redwood Boulevard, and would reduce future exterior noise levels to 65 dBA Ldn and below the City of Novato's threshold.

- b. A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce interior noise levels to 45 dBA Ldn or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, and protected ventilation openings. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City of Novato, along with the building plans and approved design, prior to issuance of a building permit. Based on preliminary calculations, the units of Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10 exposed to Redwood Boulevard traffic noise, would require windows and doors with minimum Sound Transmission Class (STC) ratings of 26 or 28.
  - c. A suitable form of forced-air mechanical ventilation shall be provided, as determined by the local building official, for residential units proposed in Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
22. Mitigation Measure NOISE-2: Modification, placement, and operation of construction equipment are possible means for minimizing the impact on the existing sensitive receptors. Construction equipment shall be well-maintained and used judiciously to be as quiet as possible. Additionally, construction activities for the proposed project shall include the following best management practices to reduce noise from construction activities near sensitive land uses:
- a. Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.
  - b. All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - c. Unnecessary idling of internal combustion engines shall be strictly prohibited.
  - d. Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
  - e. "Quiet" air compressors and other stationary noise sources shall be used where technology exists.

- f. Noise from construction workers' radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
- g. The developer shall issue a written notice to all businesses, residences, and other noise-sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
- h. In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.
- i. A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

23. Mitigation Measure TRANS-1: Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of storage.

The following conditions of approval shall be met to the satisfaction of the North Marin Water District:

- 24. Construction of new water distribution facilities and payment of connection fees shall be required before water service can be provided to the project. The developer must apply to the Water District, enter into an agreement with the District, and complete financial arrangements for new distribution facilities prior to recording the final map. Occupancy approval shall not be granted until water service installation and sign-off by the Water District.
- 25. The developer shall install both in-tract and off-tract potable and recycled water mains in compliance with the Water District's regulations and specifications. Provisions shall be made, as directed by the District, to provide for connection to the existing recycled water distribution main in Redwood Boulevard. The onsite irrigation system shall be designed to prevent run off onto areas not under control of the developer.
- 26. The developer shall dedicate easements where necessary for Water District facilities (both potable water and recycled water) to serve the proposed project. Separate fire services would be required for commercial/retail structures and separate meters for landscaping demands would also typically be provided.

27. The project shall be designed to meet the requirements of Water District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with the water conservation measures, as applicable, can be verified by the Water District.
28. The developer shall install an above-ground reduced pressure principle (RPP) backflow prevention device at the meter in accordance with Water District Regulation 6 and California Department of Health Regulations (Title 17). Upon installation, an inspection report (device testing) shall be completed and returned to the Water District prior to operation of the project.

The following conditions of approval shall be met by the Developer to the satisfaction of the Novato Fire Protection District:

29. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13R and Fire Protection Standard #401. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District should an upgrade for the domestic water meter be needed. Additional sizing may be required due to available pressures and fire flow.
30. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District to apply for fire service connection. Additional sizing may be required due to available pressures and fire flow.
31. All automatic fire sprinkler and fire alarm systems, flow switches, and control valves shall be monitored by an approved UL Central Station company, zoned, and enunciated as required by the Novato Fire District and Fire Protection Standard #400.
32. Fire hydrants capable of supplying 3,500 gallons per minute minimum will be required to be installed so that spacing between hydrants does not exceed 300 feet. The fire hydrant(s) shall be spotted by the Fire Marshal and contain at least one 4 and one half inch and one 2 and one half inch outlets. Installation shall conform to the specifications of the North Marin Water District.
33. Fire hydrants shall be tested and installed prior to framing.
34. Fire Hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a traffic "blue reflective marker" installed per NFD Standards.
35. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
36. Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, all

weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.

37. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
38. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
39. Knox key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.
40. A business shall create and maintain a pre-plan per Fire Protection District ordinance.
41. Permit application and associated fees shall be submitted with plan submittal package.
42. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
43. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
44. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.
45. If solar photovoltaic or alternative energy systems are proposed, then such systems shall conform to the 2013 CFC Chapter 6.

The following conditions of approval shall be met to the satisfaction of the Novato Public Works Department:

#### General Conditions of Approval

46. Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the City of Novato Design and Construction Standards (as modified by Memorandum dated 09/09/14), unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
47. Applicant shall be responsible for all City plan check, map check and inspection costs. The Applicant shall either pay the current fees or enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.

48. Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall identify include all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, telephone, cable television, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. Encroachment Permits will not be issued prior to the approval of the Improvement Plans.
49. All existing and proposed electrical and communications lines, service cabinets, and devices, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be approved by the appropriate utility company
50. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. This condition shall be satisfied prior to approval of the Improvement Plans.
51. A detailed Soils Investigation/Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

If at any time, prior to final acceptance of the project improvements, the City Engineer requests an independent geotechnical investigation and report, then an independent geotechnical engineer, shall be retained by the City at the applicant's expense, to conduct requested investigations.

52. A drainage report prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall



also include an analysis of the 100-year storm overland flow.

53. Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans.
54. Prior to the approval of the Improvement Plans and prior to the issuance of any grading permit, the applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project. Proof of approval and/or clearances, including but not limited to, Pacific Gas and Electric Co., North Marin Water District, and the Novato Sanitary District shall be submitted to the City prior to approval of the improvement plans. A complete set of improvement plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.
55. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.
56. Applicant shall obtain signatures from representatives of the Novato Fire District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review of those plans prior to City approval.
57. The Applicant shall design and construct all new pedestrian walkways and handicap ramps to meet current ADA standard details.
58. All outside garbage facilities shall be designed to be fully enclosed with a roof meeting Marin County's storm water pollution prevention best management practices.
59. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil shall be noted in the improvement plans.
60. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of site distance to the satisfaction of the City Engineer.
61. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

Special Conditions of Approval:

62. The Applicant shall submit Improvement Plans prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Atherton Place Vesting Tentative Map (Sheets TM1.0 through TM6.1), prepared by Underwood & Rosenblum, Inc., dated August 18, 2017 (VTM).
63. All on-site (defined as within the subdivision boundaries) streets, parking lots, sidewalks, streetlights, storm drain facilities and stormwater quality facilities shall be privately owned and maintained.
64. Ranch Drive shall be widened to accommodate the construction of a new 8-foot wide parking lane along the project frontage from the proposed westerly driveway to Redwood Boulevard, as depicted on the VTM. The parking lane shall be constructed of reinforced pervious concrete and sloped away from the curb. A valley gutter shall be constructed to convey runoff. New 5.5-foot wide curb and sidewalk shall be constructed behind the new parking lane. See Section A on Sheet TM4.6 of the VTM.
65. Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of vehicle storage.
66. The existing 42" storm drain and fiber optic line along the Redwood Boulevard frontage shall be relocated and replaced within the existing street right-of-way. The existing storm drain shall be abandoned (removed).
67. The existing sidewalk along the Redwood Boulevard shall be removed and replaced with new sidewalk matching the 11.5-foot width of the existing walk.
68. New directional pedestrian curb ramps shall be constructed at the northwest and southwest corners of the intersections of Pinheiro Circle/Redwood Boulevard and Ranch Drive/Redwood Boulevard. "Directional" means that the ramps shall point users directly in the path of travel through the north-south crosswalks. All pedestrian curb ramps shall meet the most recent ADA and Caltrans Standards.
69. All existing streetlights along the frontages shall be relocated and replaced with streetlights meeting current City standards.
70. Onsite and offsite storm drain improvements shall be constructed in accordance with City standards and sized according to the final approved drainage report.
71. Onsite and offsite stormwater treatment BMPs shall be constructed in accordance with the final approved SWCP.

Final Map Conditions of Approval:

72. A final map, as defined in the State Subdivision Map Act, shall be prepared by a licensed

land surveyor or civil engineer. The Final Map shall show all parcels, rights-of-way, and easement(s), and shall be submitted to the City Engineer for review. The Final Map shall be in substantial conformance with the approved Vesting Tentative Map and all applicable conditions of approval. The Final Map is not valid until it has been approved by the City and recorded. Closure calculations shall be provided at the time of initial Final Map submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the Final Map shall be directly verifiable by information shown on the closure calculation printout. The point(s) of beginning shall be clearly defined. All lot sizes shall be shown on the Final Map and shall be verifiable from information shown on the closure calculation printout. A current title report (within past 30 days) shall be submitted at the time of initial Final Map submittal.

73. Easements in favor of North Marin Water District and the Novato Sanitary District shall be dedicated by separate instruments, to be recorded concurrently, and shown on the Final Map. The Applicant shall prepare all necessary legal descriptions and deeds and submit them to the City for review. After recordation, copies of the recorded deeds shall be submitted to the City.
74. The Applicant shall make the following irrevocable offers of dedication to the City for public purposes on the Final Map:
  - a. Street right-of-way along the entire Ranch Drive frontage of sufficient width to accommodate the proposed street widening and sidewalk relocation entirely within the street right-of-way (designated as “Area 3” on Sheet TM5.4 of the VTM).
  - b. Street right-of-way along the western end of the Pinheiro Circle frontage of sufficient width to accommodate the existing curb and gutter within the street right of way (designated as “Area 1” on Sheet TM5.4 of the VTM).
  - c. A storm drain easement at the southern end of the Redwood Boulevard frontage to accommodate the relocation of the existing 42” storm drain.
  - d. A public utility easement along the Ranch Drive frontage.
75. On the Final Map, the Applicant shall indicate that the common parcel is or will be dedicated to the Homeowner’s Association.
76. The Applicant shall transmit by certified mail a copy of the conditionally approved Tentative Map together with a copy of Section 66436 of the State Subdivision Map Act to each public entity or public utility that is an easement holder of record.
77. The Final Map shall not be approved prior to approval of the Improvement Plans.
78. Prior to approval of a final map or issuance of a grading permit, the Applicant shall either complete all of the onsite and offsite improvements to the satisfaction of the City Engineer, or enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all onsite and offsite improvements, including but not limited to, grading

and construction of any curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities, to the satisfaction of the City Engineer. The Improvement Agreement shall be secured to guarantee the faithful performance of the agreement in the amount of 100% of the estimated cost of the improvements and for the payment of labor and materials in the amount of 100% of the estimated cost of the improvements. A certificate of occupancy shall not be issued for any structure until required improvements are completed to the satisfaction of the City Engineer.

79. Concurrent with the recordation of the Final Map, the Applicant shall establish a Homeowner's Association (HOA) in accordance with State law with recorded Covenants, Conditions & Restrictions (CC&Rs) to provide long-term and ongoing maintenance of all common onsite improvements. Specifically, the HOA will be responsible for the long-term and ongoing maintenance of all streets, parking lots, sidewalks, streetlights, storm drain facilities, stormwater quality facilities, common garbage facilities, landscaping and other improvements within the HOA owned common parcel, except for park improvements within the Exclusive Park Use Easement. The CC&Rs shall be submitted to the to the City Engineer and City Attorney for review and approval prior to recordation
80. The City will have enforcement authority over the HOA's maintenance obligations and the obligation to review and approved proposed changes amendments to the CC&R's. The CC&R's shall require the HOA to create and maintain a separate maintenance reserve fund in the amount of a percentage of the cost of constructing the HOA maintained improvements listed above.
81. Prior to the approval of the Final Map, the Applicant shall pay fifty percent (50%) of the total Park In-lieu Fees. The remainder of the Park In-lieu Fees shall be paid prior to issuance of Building Permits. The total amount of the Park In-lieu Fees shall be calculated in accordance with NMC 9-20.008.

#### Construction Conditions of Approval:

82. Construction stormwater pollution prevention measures as indicated in the SWPPP shall be consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The project applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.
83. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.

84. A City of Novato Encroachment Permit shall be obtained prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
85. If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Service Department, the Novato Fire Protection District, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
86. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 12" in diameter and larger shall be professionally televised and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired to the satisfaction of the City Engineer.
87. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
88. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways."
89. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed and service connections stubbed out behind the sidewalk. Public utilities, Cable TV, sanitary sewers, and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
90. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
91. Utilities to be abandoned shall be removed, filled with suitable material and/or capped to the approval of the applicable utility agency and to the approval of the City Engineer.
92. After all of the new underground utilities within existing public streets have been installed,

the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.

93. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

Occupancy Conditions of Approval:

94. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
95. Prior to occupancy of any building, the Applicant shall submit for review and approval by the City Engineer, a Post-Construction Stormwater Operations and Maintenance Plan that provides an exhibit showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing inspection, maintenance and operation of all post-construction stormwater treatment facilities. Once approved, the property owner shall enter into an agreement (transferrable to the future Homeowner's Association) with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Operations and Maintenance Plan.
96. Prior to occupancy of any building, the applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

97. 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.

PLANNING COMMISSION RESOLUTION

RESOLUTION NO.

RESOLUTION OF NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE THE VESTING TENTATIVE SUBDIVISION MAP AND VACATION OF EASEMENT FOR ATHERTON PLACE, A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNs 125-600-51 AND -52

WHEREAS, the City of Novato ("City") received applications for a master plan amendment, precise development plan amendment, vesting tentative subdivision map, vacation of a public drainage easement, and design review to permit the construction and operation of Atherton Place ("Project"), a mixed-use development project featuring 50 townhome-style residential condominiums and a 1,340 square-foot commercial condominium, located at 7533 and 7537 Redwood Boulevard (collectively "Project Site"), APNs 125-600- 52 and -53; and

WHEREAS, The applicant has requested approval of a vesting tentative map (VTM) to subdivide the 3.6-acre Project Site into a single lot and delineating air space rights for 50 residential condominiums and a single commercial condominium; and

WHEREAS, the Project includes vacation of an existing 10-foot wide public drainage easement crossing the Project Site's frontage at Redwood Boulevard and relocation of the drainage line therein to the public right-of-way; 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 construction and operation of the Project, including subdivision of the Project Site, 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 operation and construction of 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 amend the Atherton Ranch Master Plan to incorporate the proposed Project; and



WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council amend the Atherton Ranch Precise Development Plan to incorporate the proposed Project; and

WHEREAS, the Planning Commission held a public hearing on November 6, 2017, and considered all oral and written comments on the Project, including the proposed VTM and vacation of easement at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing regarding the Project, including the proposed VTM and vacation of easement at issue herein, were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, 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 October 17, 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 Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) 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 (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (5) the Atherton Ranch EIR and Final EIR certified on October 10, 2000 (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 3. Vesting Tentative Map Findings**

The Planning Commission hereby makes the following findings as required by Section 9-7.002e2 of the Novato Municipal Code with respect to the Vesting Tentative Map for Atherton Place:

- a. That the proposed subdivision, together with the provisions for its design and improvement is consistent with the Novato General Plan and any specific plans.**

The VTM for the Project has been reviewed based on applicable policies of the Novato General Plan as discussed in Exhibit A attached hereto and incorporated herein by reference. Exhibit A lists applicable policies of the General Plan and presents findings and statements of fact demonstrating the Project's consistency therewith. Based on this review, the VTM is found to be consistent with all applicable policies of the General Plan, as set forth in finding a. above.

- b. The proposal is consistent with the Zoning Ordinance and any master plan or precise development plan adopted pursuant thereto.**

The VTM was submitted in conjunction with applications to amend the Atherton Ranch Master Plan and Precise Development Plan to incorporate the Project. The VTM presents a lot pattern, utilities, and subdivision improvements reflecting the primary and alternative site designs presented in the plan package for the Project and details improvements of a type and location that are consistent with the Novato Zoning Ordinance, Master Plan and Precise Development Plan amendments for the Project, including street design, drainage, utilities, and landscaping. Based on this circumstance, the VTM is considered to be consistent with the amended Master Plan, and Precise Development Plan.

The VTM for Atherton Place has been reviewed by the Novato Public Works Department to determine compliance with the development standards of Chapters V and IX of the Novato Municipal Code, including drainage, streets, driveways, grading, landscaping, pedestrian circulation, sewage disposal, solid waste disposal, street lighting, and utilities. The Public Works Department has recommended conditions of approval that are provided in Exhibit B, attached hereto and incorporated herein by reference, to ensure the Project's construction detail plans include key items required by Chapters V and IX of the Novato Municipal Code.

Based on the observations above, the VTM is hereby found to be consistent with the Atherton Ranch Master plan as amended and the Novato Zoning Ordinance as set forth in finding b. above.

- c. The effect of the approval on the housing needs of the region has been considered and balanced against the public service needs of the residents of Novato and available fiscal and environmental resources.**

The Project will provide 50 for-sale residential condominium units. The addition of 50 new residential condominiums would incrementally expand Novato's housing stock and meet unmet demand for such units in the community. Notably, the Novato Housing Element anticipates development of the Project site with up to 54 multi-family residential units at above moderate prices.

The service demands of the Project were considered by 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 and service for water, sewer, emergency medical/fire, and stormwater control for residential subdivisions in Novato. 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 adopted for the Project and implemented through the construction design plans and construction phases of the Project. These agencies did not identify any service, fiscal, or resource (e.g., water) constraints that would negatively affect the ability to serve the Project or existing residents in Novato.

Based on the facts above, the VTM is hereby found to be consistent finding c. above.

**d. The design of the subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities in the subdivision.**

Facts in Support: The proposed condominium buildings are arranged with roof faces and facades oriented south to southeast. This orientation exposes each building to morning sun providing natural heating during winter months, as well as opportunities for roof mounted solar equipment. The Project's landscape plan includes trees that would provide shade offering natural cooling.

Based on the facts above, the VTM is hereby found to be consistent finding d. above.

**Section 4. Public Drainage Easement Vacation – General Plan Consistency Report**

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission hereby reports to the City Council, pursuant to California Government Code Section 65402 and Streets and Highways Code Section 8313, that vacating an existing 10-foot wide public drainage easement encumbering the Project Site's frontage at Redwood Boulevard between Ranch Drive and Pinheiro Circle is consistent with the Novato General Plan based on the following findings:

- a. The public drainage easement is no longer required to protect public health, safety, and welfare by conveying stormwater drainage from Atherton Ranch and lands to the west in the area of Carmel Drive since the Project will construct a new drainage line serving the same function in the existing public right-of-way along Redwood Boulevard as described in the VTM application and map;
- b. Vacating the public drainage easement will allow the Project to install on-site bioretention features of a sufficient size and proper location to treat stormwater run-off from Buildings 4 and 9 as depicted on the VTM;
- c. Vacating the public drainage easement and relocating the drainage pipe therein allows the Project to offer expanded patio and landscape space for the condominium units in Buildings 4 and 9 resulting in a more attractive streetscape at Redwood Boulevard; and

- d. Eliminating the public drainage easement allows development on the Project Site to shift closer to Redwood Boulevard offering a more generous setback from the existing private park at Atherton Ranch.

The noted benefits of vacating the public drainage easement and relocating the drainage pipe therein are hereby found to be consistent with the General Plan policies and supporting statements of fact provided in Exhibit A, attached hereto and incorporated herein by reference.

**Section 5. Vesting Tentative Map Recommendation**

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission hereby recommends the City Council approve the Vesting Tentative Map for Atherton Place prepared by Underwood & Rosenblum, Inc., dated September 15, 2017, subject to the condition of approval below.

**Section 6. Conditions of Approval and Limitations**

The Project shall comply with all conditions of approval specified in Exhibit B attached hereto.

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.

Chairman

**Attachments**

Exhibit A- Atherton Place - General Plan, Master Plan, & Precise Development Plan Consistency Findings

Exhibit B - Atherton Place – Conditions of Approval

Ref: 10702M

## EXHIBIT A

### ATHERTON PLACE

#### GENERAL PLAN, MASTER PLAN, & PRECISE DEVELOPMENT PLAN CONSISTENCY FINDINGS

The following discussion lists policies of the 1996 Novato General Plan and amended Atherton Ranch Master Plan and Precise Development Plan applicable to Atherton Place 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 Site is assigned the Mixed-Use (MU) land use designation of the 1996 Novato General Plan. The MU designation permits the combination of commercial uses (e.g., retail, offices, personal services) and residential units; housing development may only be permitted in conjunction with a qualifying commercial use.

The MU designation addresses development intensity via floor area ratio (FAR), which includes habitable floor area and excludes non-habitable garage areas. The maximum FAR for commercial development is 0.40 and up to 0.80 when housing is incorporated into a project. The MU designation does not specify a maximum or minimum ratio of commercial area to housing space.

The Project includes 50 residential condominiums with a cumulative floor area of 90,823 square-feet and a single commercial condominium space of 1,340 square-feet. The following land uses are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops,

beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences. Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

These activities are consistent with the types of land uses permitted by the MU land use designation.

The Project proposes a cumulative floor area of 92,163 square-feet. This intensity of development represents an FAR of 0.59 based on the Project Site's area of 3.60 acres. This FAR level falls under the maximum FAR of 0.80 offered to mixed-use projects.

Based on the facts above, the Project is hereby found to be consistent with and advances 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 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 and services addressing potable and recycled water, sewer, emergency medical/fire, and stormwater control. Each agency has provided conditions of approval intended to insure the Project provides adequate infrastructure and has confirmed the ability to serve the Project. These conditions of approval are to be adopted for the Project and implemented through the construction design and physical construction phases of the Project. These agencies did not identify any constraints to serving the Project on an individual or cumulative basis.

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 land use, development intensity, and design of the Project. The CEQA IS/MND also analyzed the demand for public parks and other government service facilities. The CEQA 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 above and the analyses, impact findings, and mitigation measures specified in the CEQA IS/MND, 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.

TR Program 4.1: Establish traffic Level of Service standards as follows:

- a. At intersections with signals or four-way stop signs: operation at LOS D
- b. At intersections with stop signs on side streets only: operation at LOS E.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential traffic implications of constructing and operating the Project at the Project Site both individually and cumulatively. The CEQA IS/MND concluded the Project's incremental addition of 23 AM and 31 PM peak hour trips to existing traffic conditions would not cause the intersections serving the Project Site to exceed the level of service (LOS) thresholds established by TR Program 4.1 individually; all intersections would operate at LOS B or better.

Under cumulative (future) conditions, the intersections serving the Project are projected to operate at LOS F in an unmitigated condition. The CEQA IS/MND observed the Project would pay development impact fees that would be applied to capacity enhancements at the Atherton/San Marin/US 101 interchange and reimburse improvements already made to the intersection of Olive Avenue and Redwood Boulevard. Improvements to these intersections are expected to maintain an acceptable LOS under cumulative development conditions.

The CEQA IS/MND notes the intersection of Golden Gate Place, Ranch Drive, and Redwood Boulevard, operating at LOS A with and without the Project in the near term, would operate at LOS F under cumulative development conditions. The CEQA IS/MND indicates the Project does not contribute to this impact. Instead, this impact is attributed to the development of new retail outlets on the east side of Redwood Boulevard between Olive Avenue and San Marin Drive. The CEQA IS/MND indicates this particular intersection would operate acceptably at LOS C under future conditions if signalized. This matter is being addressed through Novato's ongoing General Plan update, which includes a CEQA assessment addressing future retail development in the North Redwood Corridor.

Based on the findings of the traffic analysis presented in the CEQA IS/MND, the Project is hereby found to be consistent with and advance Transportation Policy 4.

TR Policy 11 Traffic Safety. Improve the safety of the roadway system.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for safety hazards related to roadway operations and project design, as well as cumulative impacts on roadway infrastructure. The CEQA IS/MND concluded the Project would not provide sufficient vehicle queuing capacity in the eastbound left-turn pocket on Ranch Drive, representing a potential traffic hazard. Mitigation Measure TRAN-1 is proposed to avoid this hazard by requiring restriping of Ranch Drive to eliminate an existing westbound turn pocket on Ranch Drive and extending the eastbound left-turn pocket to provide a minimum of 50-feet of vehicle queuing space. No other traffic safety issues were identified for the Project.

Based on the facts above, the Project is hereby found to be consistent with TR Policy 11.

## ***HOUSING***

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.

HO Policy 3.2 Design that Fits into the Neighborhood Context. It is the City's intent that neighborhood identity and sense of community will be enhanced by designing all new housing to have a transition of scale and compatibility in form to the surrounding area.

Facts in Support: The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project's primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project's primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.



A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project's site design, building height/massing, and architecture and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architecture and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission's recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.

Based on the facts above, the Project is hereby considered to be consistent with CI Policy1 and HO Policy 3.2.

HO Policy 3.3 Housing Design Principles. The intent in the design of new housing is to provide stable, safe, and attractive neighborhoods through high quality architecture, site planning, and amenities that address the following principles:

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story setbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.

Facts in Support: The Project's architectural design minimizes the appearance of building height and mass by including the following:

- roofs of varying heights and planes providing vertical articulation
- window bays with shed roof dormers creating horizontal and vertical articulation
- consistent rhythm of window with large window openings avoiding large uninterrupted wall planes

- covered porches and window bays on the side elevation of end units creating four sided architectural interest
  - variation of finish materials, including a mix of stucco, shingle, and horizontal and vertical siding, avoiding the monotony of a single siding type
  - varying garage door designs to avoid a monotonous rhythm of blank spaces on rear elevations of the condominiums
  - decorative bracketing, corbels, and column features adding relief and architectural interest to the exterior elevations.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.

Facts in Support: The Project Site fronts on Redwood Boulevard, Ranch Drive, and Pinheiro Circle. Redwood Boulevard is an arterial street with a commercial pattern of development. The condominium buildings at Redwood Boulevard are located approximately 26.5-feet away from the back of sidewalk along this roadway, providing a generous and appropriate transition from public space (sidewalk) to semi-private landscaped spaces and private courtyards.

Ranch Drive and Pinheiro Circle are residential streets and are defined by existing residences with front entries and porches facing the street. The Project has several condominium units with side elevations adjoining Ranch Drive and Pinheiro Circle. The side elevations of these condominiums feature a wrap-around porch and window bays giving the appearance of a traditional front elevation. This design treatment relates well to Pinheiro Circle and Ranch Drive and is consistent with the pattern of development in Atherton Ranch.

The Project does not present any potential privacy issues with nearby residences since there is substantial distance between proposed and existing residential units.

- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.

Facts in Support: The Project’s primary and alternative site designs orient new development on internal landscape spaces and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard. In addition, the project includes a strong pedestrian orientation with connectivity to internal outdoor spaces, guest parking, and the surrounding street system. Key focal areas and pedestrian amenities include:

- a plaza space at Redwood Boulevard
- two interior landscaped courtyard spaces

- a central pedestrian spine running east and west from the plaza at Redwood Boulevard to the outdoor use area between Buildings 1 and 12
  - a pedestrian pathway connecting to the main guest parking areas within the project and the interior courtyard areas
  - an outdoor seating area connected to the commercial tenant space
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

Facts in Support: The garages and guest parking stalls in the Project would be accessed by internal drive aisles. Several garages would be visible from Pinheiro Circle and Ranch Drive. However, these garages do not directly front onto these streets and would not dominate the street facing façades of the condominium units. The Project includes a variety of garage door designs to avoid a monotonous pattern of doors.

The majority of the Project’s surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the Project or the larger Atherton Ranch development.

Based on the facts above, the Project’s primary and alternative site design and architecture and landscape concept are hereby found to be consistent with HO Policy 3.3.

HO Policy 7.2 Variety of Housing Choices. In response to the broad range of housing needs in Novato, the City will strive to achieve a mix of housing types, densities, affordability levels and designs. The City will work with developers of ‘non-traditional’ and innovative housing approaches relating to the design, construction and types of housing that meet local housing needs, which may include, but not be limited to, provision of the following types of housing at varying affordability levels:

- a. Owner and renter housing
- b. Small and large units
- c. Single and multi-family housing
- d. Housing close to jobs and transit
- e. Mixed use housing

- f. Supportive housing
- g. Single Room Occupancy units (SRO's)
- h. Shared living opportunities and co-housing
- i. Manufactured housing
- j. Self-help or "sweat equity" housing
- k. Cooperatives or joint ventures
- l. Assisted living

Facts in Support: The Project provides a mix of medium to large residential condominiums, a multi-family housing type that is in demand in Novato. Accordingly, the Project is hereby found to be consistent with HO Policy 7.2.

## ***ENVIRONMENT***

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

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.

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: 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 discussed in the CEQA IS/MND, the Project is required to comply with provisions of the National Pollution Discharge Elimination System (NPDES) and the State Water Resources Control Board's Phase II Small Municipal Separate Storm Sewer Systems Permit (MS4s Permit).

The NPDES program requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential adverse impacts to surface water quality through the Project's construction period. The SWPPP must include Best Management Practices (BMPs) addressing erosion and sediment control, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

The MS4s permit program requires the development and implementation of a post-construction stormwater control plan (SCP) that incorporates low impact development elements to maintain a project site's pre-development stormwater run-off rates and volumes. The requirements of the MS4s permit are managed by the Marin County Stormwater Pollution Prevention Program (MCSTOPP) with guidance via a design manual prepared by the Bay Area Stormwater

Management Agencies Association (BASMAA). Low impact design elements include the use of permeable pavements and bioretention areas where stormwater run-off can be naturally filtered prior to entering the public stormwater drainage system.

The project developer has submitted a preliminary stormwater control plan for the Project. The preliminary stormwater control plan has been reviewed by the Novato Public Works Department, which has determined the preliminary plan demonstrates the Project's stormwater drainage design can meet the requirements of the MS4s permit. The Public Works Department has applied conditions of approval requiring the applicant to prepare a final SCP, as well as a SWPPP and Erosion and Sediment Control Plan. These documents will be submitted with the improvement plans prepared for the construction phase of the Project.

Compliance with the programs and conditions of approval noted above would ensure the Project protects water resources consistent with EN Policies 7, 35, and 37.

EN Policy 19 Special Status Species. Cooperate with State and Federal Agencies to ensure that development does not substantially adversely affect special status species appearing on the State or Federal list for any rare, endangered, or threatened species. The environmental documentation will screen for the Federal Candidate Species, plants listed on lists 1A, 1B, or 2 of the California Native Plant Society (CNPS), inventory of rare and endangered vascular plants of California and animals designated by CDFG as species of special concern or their current equivalent.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in the CEQA IS/MND, the Project Site does not host sensitive natural communities or native populations of plants or animals. However, the CEQA IS/MND observed the Project could potentially impact birds and/or raptors nesting in trees located on the Project Site. Given this circumstance the CEQA IS/MND recommends implementation of mitigation measure BIOLOGY-1.

Mitigation Measure BIOLOGY-1 is intended to reduce and/or avoid the Project's potential to disturb nesting birds during construction of the Project. Mitigation Measure BIOLOGY-1 requires pre-construction surveys for nesting birds no more than 7-days prior to the commencement of grading or vegetation removal. Mitigation Measure BIOLOGY-1 provides specific steps to be followed in the event nesting birds are located, including consultation with the California Department of Fish and Wildlife and the establishment of appropriate buffer areas within which construction work would not be permitted until young birds have fledged.

Based on the findings of the CEQA IS/MND and implementation of the noted mitigation measure, the Project is hereby found to be consistent with and advance EN Policy 19.

EN Policy 25 Trees on Private Property. Encourage and, where appropriate, require actions by private property owners to protect the health of native woodlands and trees.

EN Policy 26 Trees in New Development. Require that the site planning, construction and maintenance of development preserve existing healthy trees and native vegetation on site to the maximum extent feasible. Replace trees and vegetation not able to be saved.

Facts in Support: The Project Site hosts a stand of heritage size oak trees along Pinheiro Circle. The Project's primary and alternate site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of certain oak trees. The CEQA IS/MND prepared for the Project analyzed these improvements and recommends Mitigation Measure BIOLOGY-2 to minimize potential damage to tree roots resulting from the noted encroachments.

Mitigation Measure BIOLOGY-2 requires a variety of steps to prevent damage to regulated trees, including, but not limited to: a) defining a tree protection zone for each regulated tree (typically 18- to 20-feet in all directions from tree trunk); b) supervision of work by a consulting arborist; and c) the use of permeable pavers where paved features must encroach into the tree protection zone.

Compliance with Mitigation Measure BIOLOGY-2 would minimize the possibility of damaging the roots of the existing oak trees along Pinheiro Circle consistent with EN Policies 25 and 26.

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 observations 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: The CEQA IS/MND prepared for the Project analyzed the potential effect of the development on air quality. The CEQA IS/MND conclude the project could generate dust and toxic air contaminants (TACs) consisting of diesel particulate matter that may negatively impact the environment. Given this circumstance the CEQA IS/MND recommends Mitigation Measures AIR-1 and AIR-2 to minimize dust and TACs from construction equipment exhaust.

Mitigation Measure AIR-1 is proposed to avoid the release of fugitive dust during construction of

the Project via implementation of best management practices recommended by the Bay Area Air Quality Management District (BAAQMD), including watering exposed soils, tarping soil stockpiles, limiting construction vehicle speeds, and posting contact information to report dust complaints. These actions would protect local air quality by minimizing the potential for construction related dust.

Mitigation Measure AIR-2 is proposed to reduce toxic air contaminants resulting from the operation of diesel powered equipment during construction of the Project. Mitigation Measure AIR-2 requires the developer to implement Mitigation Measure AIR-1 and also ensure that construction equipment is selected to minimize exhaust emissions, such as operating diesel-powered off-road equipment meeting U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent and/or the use of California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel). Compliance with these provision would protect local air quality by minimizing diesel exhaust emissions.

Based on the findings of the CEQA IS/MND and implementation of Mitigation Measures AIR-1 and AIR-2, the Project is hereby found to be consistent with EN Policy 34

### ***SAFETY & NOISE***

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

SF Policy 3 Slope and Soil Instability. Continue to enforce existing regulations and procedures to identify potential hazards relating to geologic and soils conditions.

Facts in Support: The CEQA IS/MND prepared for the Project considered the soil and seismic hazards potentially affecting structures on the Project Site. The CEQA IS/MND determined the Project Site is subject to significant hazards as a result of strong seismic ground shaking. Given this circumstance, the CEQA IS/MND recommends Mitigation Measure GEOLOGY-1 to reduce the risk of loss, injury, or death related to strong seismic ground shaking. Mitigation Measure GEOLOGY-1 requires the Project to be designed and constructed in accordance with the California Building Code and recommendations of the Project's design-level geotechnical report, addressing such items as over-excavation of weak soils, the placement and compaction of engineered fill soils, and foundation and drainage system design.

Implementation of Mitigation Measure GEOLOGY-1 would reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards and site specific soil conditions consistent with SF Policies 1 and 3.

SF Policy 9 Storm Drainage System. Maintain unobstructed water flow in the storm drainage system.

Facts in Support: The project developer submitted a preliminary drainage plan for the Project. The preliminary drainage plan has been reviewed by the Novato Public Works Department to

determine if the existing public stormwater drainage system has sufficient capacity to accommodate the Project's stormwater run-off. The preliminary drainage plan was found to demonstrate there is adequate capacity in the public drainage system to accommodate the Project. The Public Works Department has applied a condition of approval requiring a final drainage plan for the Project. The final storm drainage plan would be submitted with the improvement plans for the construction phase of the Project.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 9.

SF Policy 16 Fire Risk in New Development. Review all development proposals for fire risk, and require mitigation measures to reduce the probability of fire.

Facts in Support: The Project was referred to the Novato Fire Protection District for review and comment on emergency medical and fire safety issues. The Fire District indicated it was satisfied with the access lanes, parking configuration, and points of entry for the Project. However, the Fire District did recommend conditions of approval to ensure the Project's design detail plans include key fire and life safety features as required by the District's adopted standards. The Fire District will review the construction level design plans prepared for the Project to ensure the new condominiums meet the District's standards.

As described in the Hazards and Hazardous Materials section of the CEQA IS/MND, the Project Site is not located in an area with high fire risk as mapped by the Novato Fire Protection District, and no mitigation is required to reduce the risk of wildland fire.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 16.

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.

SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

Facts in Support (SF Policy 37 & 38): The CEQA IS/MND prepared for the Project determined the residential units proposed along Redwood Boulevard would not meet the City's standard of 65 dBA  $L_{dn}$  for exterior noise levels at multi-family residential uses. Additionally, the residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) would not meet the City of Novato's standard of 45 dBA  $L_{dn}$  for interior noise levels with standard construction methods. Given these findings, Mitigation Measure NOISE-1 is recommended in the CEQA IS/MND to reduce exterior noise levels to 65 dBA  $L_{dn}$  and interior noise to 45 dBA  $L_{dn}$ .

Mitigation Measure NOISE-1 requires a 4-foot high solid noise barrier (fence) to reduce exterior noise in the private patios of Buildings 4 and 9 to an acceptable level of 63 dBA  $L_{dn}$ . In addition, Mitigation Measure NOISE-1 requires a qualified acoustical consultant to review the final site plan, building elevations, and floor plans of the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) prior to construction to recommend building treatments



to reduce interior noise levels to 45 dBA  $L_{dn}$ . Such treatments may include sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Mitigation Measure NOISE-1 also requires a forced-air mechanical ventilation system (air conditioning) for Buildings 4 and 9 so that windows may be kept closed at the occupant's discretion to control interior noise.

As described in the Noise Section of the CEQA IS/MND, the Project would cause a temporary increase in ambient noise levels during construction activities. Accordingly, Mitigation Measure NOISE- 2 is proposed to minimize noise disturbances due to construction activities. Mitigation Measure NOISE-2 requires the implementation of a variety of procedures to minimize construction noise, including:

- Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.
- All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- "Quiet" air compressors and other stationary noise sources shall be used where technology exists.
- Noise from construction workers' radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
- The developer shall issue a written notice to all businesses, residences, and other noise sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
- In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion."
- A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem.

The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

Based on the facts above, the Project is considered to be consistent with SF Policies 37 and 38.

### ***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 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. The Water District requested the Project connect to its recycled water main located in Redwood Boulevard and comply with District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 addresses plumbing fixtures, plant selection, and irrigation features.

The Project's conceptual landscape plan details a plant list predominantly comprised of low water use trees, shrubs, and groundcovers. The specifics of the Project's irrigation and plumbing systems will be developed when construction detail plans are prepared for the development. The Project's construction detail plans will be reviewed to determine compliance with the District's water conservation ordinance.

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

### ***COMMUNITY IDENTITY***

CI Policy 7 Landscaping. Encourage attractive native and drought-tolerant, low-maintenance landscaping responsive to fire hazards.

Facts in Support: The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. In this instance, the Project proposes an extensive plant list comprised predominantly of low water use species with the balance of plants requiring medium water use. In addition, the Project will connect into the Water District's recycled water line for landscape irrigation. The combination of low water use plants and recycled water for irrigation will minimize water use for landscaping purposes. See also the discussion for SF Policy 16 above.

Based on the facts above, the Project is hereby found to be consistent with CI Policy 7.

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

Facts in Support: All utilities serving the Project will be placed underground 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 for the Project is provided via two-car garages attached to each residential condominium unit and surface parking stalls for guests and tenants/patrons of the retail condominium space. The majority of the surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the project or the larger Atherton Ranch development.

Based on the facts 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's primary site design would provide 50,827 square-feet (1.16 acres) of usable outdoor space, including:

- Ranch Drive Garden (between Bldgs. 2 & 3) - 4,172 sq. ft.
- Pinheiro Circle Garden (between Bldgs. 10 & 11) - 3,813 sq. ft.
- Atherton Village Green (between Bldgs. 9 & 4) - 3,911 sq. ft.
- The Promenade (between Bldgs. 5, 6, 7, & 8) – 6,326 sq. ft.
- The Park (between Bldgs. 1 & 12; Atherton Ranch Park Easement) – 20,888 sq. ft.
- Private Residential Patios – 11,717 sq. ft.

The Project's alternative site design would provide 43,409 square-feet (.99 acres) of usable outdoor space, including all of the features listed above and excluding improvements within the Atherton Ranch Home Owners' Association (Atherton Ranch HOA) park easement (approximately 7,418 sq. ft.).

The figures above do not include the undeveloped area surrounding the heritage oak trees along Pinheiro Circle.

Both site designs include the addition of two children's play structures. These features were added to the Project at the request of the Atherton Ranch HOA. This request was based on concerns the Project did not provide sufficient play features and would therefore lead to increased use of the existing play structures in the private park at Atherton Ranch.

The usable open space provided by the primary site design and alternative site plan provide two-and-a-half to two times the amount of open space area required for multi-family residential projects by the Novato Municipal Code. The Novato Municipal Code does not require the provision of children's play structures in outdoor use areas.

Based on the observations 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 features a clearly defined pedestrian circulation system with each residential unit connected to a walkway offering a path of travel to outdoor space amenities, surface parking areas, and the surrounding street system. Notable pedestrian amenities include the promenade and connecting pathways between Buildings 5, 6, 7, and 8 and the generously wide sidewalk offered along Redwood Boulevard. Based on these features, 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: The CEQA IS/MND prepared for the Project indicates there are no known archaeological or paleontological resources at the Project Site. Regardless, there remains a possibility that unknown, buried prehistoric or paleontological resources could be encountered or damaged during construction of the Project. Given this circumstance, the CEQA IS/MND recommends implementation of Mitigation Measures CULTURAL-1a, CULTURAL-1b, CULTURAL 2, and CULTURAL-3 to avoid impacts to such resources if encountered during construction.

Mitigation Measures CULTURAL-1a and CULTURAL-1b are proposed to ensure the protection of unknown, buried cultural resources. Mitigation Measure CULTURAL-1a requires the applicant to retain a qualified archeological consultant to develop and implement an archeological monitoring program to ensure any archeological resources uncovered during site preparation and construction are identified and appropriately treated. Mitigation Measure CULTURAL-1b requires all work to be stopped within 50-feet of a suspected archeological resource and review of any such a find by a qualified archeologist.

Mitigation Measure CULTURAL-2 is intended to ensure the protection of paleontological resources. Mitigation Measure CULTURAL-2 stipulates that if a suspected fossil is encountered, 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, a treatment plan shall be developed by a qualified paleontologist.

Mitigation Measure CULTURAL-3 is proposed to ensure the protection of unknown, buried human remains. Mitigation Measure CULTURAL-3 requires compliance with the uniform procedures of Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code. The cited code sections specify the procedures that shall be

implemented should buried human remains be encountered during project construction, including notifying the county coroner within 24-hours of discovery and contacting the Native American Heritage Commission should the remains be determined to be Native American. The most likely decedent of a deceased Native American or their representative shall then determine, in consultation with the property owner, treatment of the human remains.

Based on the facts above, the Project is not anticipated to have an adverse effect on archeological or paleontological resources and is hereby found to be consistent with CI Policy 30.

### **ATHERTON RANCH MASTER PLAN & PRECISE DEVELOPMENT PLAN CONSISTENCY**

The proposed Vesting Tentative Map is hereby found to be consistent with the Atherton Ranch Master Plan and Precise Development Plan, as amended to include the development concepts for the Atherton Place. In particular, the graphics prepared for the Vesting Tentative Map depict a land subdivision and improvements supporting the land use types, development intensity, and site design options allowed the by the Atherton Ranch Master Plan and Precise Development Plan, as amended.

## **EXHIBIT B**

### **ATHERTON PLACE – VESTING TENTATIVE MAP**

#### **CONDITIONS OF APPROVAL**

The following conditions approval shall apply to the Vesting Tentative Map for Atherton Place:

1. The VTM approval shall expire two years from the date of approval unless a Final Parcel Map is recorded to the satisfaction of the City Engineer.
2. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, recordation of final maps or other entitlements.
3. The applicant, or any successor in interest to the Project, shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02.
4. The applicant, or any successor in interest to the Project, shall be subject to paying an affordable housing in-lieu fee pursuant to City Council Ordinance No. 1406 and Resolution No. 120-03.
5. The applicant, or any successor in interest to the Project, shall prepare Codes, Covenants, and Restrictions (CC&R's) addressing the following:
  - a. Provisions for maintenance of structures with common walls and roofs.
  - b. Provisions prohibiting accessory dwelling units, residential accessory structures, or additions to the residential condominiums in the Project.
  - c. Creation of a parking management and enforcement program to ensure the availability of on-site parking for residents and guests, including provisions limiting the use of garages to the parking of vehicles.
  - d. The City shall be noted as a third-party beneficiary to the CC&Rs, providing the right, but not the obligation, to enforce the CC&Rs or select provisions thereof.
  - e. The CC&Rs shall note those sections of the CC&Rs requiring City consent to rescind or amend, including, but not limited to, measures addressing parking management and enforcement.
  - f. The requirement for professional property management for a minimum of 2 years.

The CC&Rs shall be submitted to the to the City Engineer, Community Development Director, and City Attorney for review and approval prior to recordation.

6. The Project shall be constructed in accordance of the with the Vesting Tentative Map for Atherton Place prepared by Underwood & Rosenblum, Inc., dated September 15, 2017.
7. Mitigation Measure VISUAL-1: The applicant shall incorporate the following specifications into the proposed project:
  - a. All lighting shall be shielded so that lighting is cast downward and “spillover” is minimized.
  - b. Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.
  - c. Whenever possible, lighting for pathways shall be low path lighting.
  - d. All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.
  - e. Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.
8. Mitigation Measure AIR-1: During any construction-period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD) and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:
  - a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - c. 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.
  - d. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
  - e. 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.

- f. 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 California Code of Regulations [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.
  - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - h. A publicly visible sign shall be posted listing the telephone number and person to contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.
9. Mitigation Measure AIR-2: The applicant shall implement Mitigation Measure AIR-1 and shall also ensure that construction equipment is selected to minimize emissions. Such equipment selection shall include the following:

All diesel-powered off-road equipment operating on the site for more than 2 days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction-period diesel particulate matter (DPM) emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement.

10. Mitigation Measure BIOLOGY-1: Any active bird nests in the vicinity of proposed vegetation removal and grading shall be avoided until young birds are able to leave the nest (i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling grading and vegetation removal during the non-nesting period (September through February), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present, or that nesting has been completed as detailed below, shall be submitted to the City of Novato for review and approval prior to initiation of grading or vegetation removal during the nesting season. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following:
- a. If initial grubbing and grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of grading or vegetation removal to provide confirmation on presence or absence of active nests in the vicinity.



- b. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the California Department of Fish and Wildlife (CDFW) and implemented to prevent nest abandonment. At a minimum, vegetation removal and grading in the vicinity of the nest shall be deferred until the young birds have fledged. A nest setback zone of at least 100 feet for raptors and 50 feet for loggerhead shrike and passerine birds shall be established, and all construction-related disturbances shall be prohibited within the nest setback zone. The perimeter of the nest setback zone shall be fenced or adequately demarcated and construction personnel restricted from the area.
  - c. If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest setback zone until a qualified biologist verifies either that a) the birds have not begun egg-laying and incubation, or b) the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.
  - d. A survey report of findings verifying that any young have fledged shall be submitted for review and approval by the City of Novato prior to initiation of grading or vegetation removal in the nest setback zone. Following approval by the City of Novato, grading, vegetation removal, and construction in the nest setback zone may proceed as proposed.
11. Mitigation Measure BIOLOGY-2: The project shall comply with Chapter XVII of the Novato Municipal Code. Compliance with the Municipal Code shall be achieved through adherence with the following provisions:
- a. Tree Preservation Guidelines contained in the Arborist Report (HortScience, 2016) shall be implemented to ensure adequate protection of trees to be preserved. This shall include adherence to specified design recommendations, pre-construction treatments and recommendations, and recommendations for tree protection during construction, and the project site plan and other improvement plans shall be revised to reflect minimum design recommendations. Design recommendations include relocating driveways, walking paths, landscape features, and careful controls on any facilities that would require excavation at least 20 feet from the trunk of Trees #168 to #178 and 18 feet from the trunk of Tree #167.
  - b. A Tree Protection Zone (TPZ), defining the limits of construction activity required for successful tree preservation, shall be established around all trees to be retained. Specific features shall include the following:
    - For Trees #168 to #178, the TPZ shall be 20 feet in all directions.
    - For Tree #167, the TPZ shall be 18 feet in the area of the west vehicle access and 20 feet in other areas surrounding the tree.
    - For Trees #155 to #166 and #187, the TPZ shall be established in two phases:

- During demolition, grading, and building construction, the TPZ shall be 10 feet in all directions. A continuous fence 10 feet from the tree trunks may also be used to separate construction on the site from these trees.
  - During installation of the sidewalk, tree protection fencing shall be placed no closer than 2 feet from the trunk.
- c. Temporary construction fencing shall remain in place around the TPZ for the duration of construction. Fencing shall not be moved unless under supervision of the consulting arborist, and no grading, excavation, construction, or storage of materials shall occur within that zone.
  - d. Irrigation systems shall be designed so that no trenching severs roots larger than 1 inch in diameter within the TPZ.
  - e. Landscape treatment within the TPZ for Trees #167 to #178 shall be compatible with the requirements of native oak. No irrigation system shall be installed within the tree driplines.
  - f. The two parking stalls and pedestrian path proposed within the TPZ for Trees #176 and #177 shall be designed and installed to minimize any damage to the tree root zone of these trees. The parking stalls and path shall preferably be designed using decomposed granite or some other permeable paving, and the design shall be reviewed and approved by the consulting arborist. Special construction techniques such as advanced hand digging to determine root locations, controlled root-cutting, and other methods to limit damage to the trees, and all work performed within the TPZ, shall be monitored by the consulting arborist.
  - g. Underground services including utilities, sub-drains, water, or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury, with all work supervised by the consulting arborist.
  - h. Any herbicides placed under paving materials shall be safe for use around trees and labeled for that use.
  - i. Lime shall not be used within 50 feet of any tree or subsurface treatment or other purposes. Lime is toxic to tree roots.
  - j. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. As trees withdraw water from the soil, expansive soils may shrink within the root area.
  - k. All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed and retained.

1. Where avoidance of a regulated tree, such as the two valley oaks growing in the central portion of the site (Trees #179 and #180), is not feasible, replacement tree plantings shall be provided at a minimum 3:1 ratio as part of the final landscape plan and in compliance with the City's Municipal Code.
12. Mitigation Measure CULTURAL-1a (Construction Monitoring): Based on the reasonable potential that archaeological resources may be present within the project site, the project applicant shall retain the services of a qualified archeological consultant who shall, in consultation with the City of Novato, devise and carry out an archeological monitoring program. The goal of the monitoring program shall be to ensure that archaeological resources uncovered during site preparation and construction are identified and appropriately treated.

The project applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological resources and shall include the following directive in appropriate construction documents:

If prehistoric or historical archaeological deposits are discovered during project activities, all work within 50 feet of the discovery shall be redirected. The project applicant shall notify the City of Novato Planning Division. A qualified archaeologist shall also be contacted to assess the situation and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Archaeological resources that may be encountered include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian or chert toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; artifact-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other material.

13. Mitigation Measure CULTURAL-1b (Post-Review Discovery): If deposits of prehistoric or historical archaeological materials are discovered during project activities, all work within 50 feet of the discovery shall be redirected. Project personnel shall not collect or move any archaeological materials. A qualified archaeologist shall be contacted to assess the situation and consult with the City as appropriate. The archaeologist shall make recommendations to the City for the treatment of the discovery.

Adverse effects on archaeological deposits shall be avoided by project activities to the degree feasible. The City shall consult with the project archaeologist and the project applicant to determine if avoidance is feasible. If the City determines that avoidance is not feasible, the archaeological deposit shall be evaluated to determine if it constitutes a historical resource (CEQA Guidelines Section 15064.5(c)(1)) or unique archaeological resource (Public Resources Code Section 21083.2) for the

purposes of the California Environmental Quality Act (CEQA). Native American archaeological resources shall be evaluated in consultation with the Federated Indians of Graton Rancheria (FIGR), the federally recognized tribe whose area of traditional authority includes the project site.

If the deposit is found to be a historical resource or unique archaeological resource, adverse effects must be avoided if feasible or mitigated. Construction may be delayed while the archaeological investigations described herein are carried out if this is the only feasible means to reduce potential effects on an important archaeological resource to a less-than-significant level. Merely recovering artifacts and storing them does not mitigate impacts to a less-than-significant level. Mitigation may include, but is not necessarily limited to, scientific excavation of the deposit in accordance with a formally constituted data recovery plan (CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; a DPR 523 form filed at the Northwest Information Center (NWIC); and, if appropriate, accessioning of the archaeological material and technical report to an archaeological repository. A public outreach product may also be appropriate, at the discretion of the City Planning Division. The archaeologist shall submit the report to the NWIC on completion of the evaluation and mitigation program.

14. Mitigation Measure CULTURAL-2: If paleontological resources (fossils) are encountered during pre-construction or construction activities, work shall be halted immediately within 50 feet of the discovery, which shall be protected in place. The City of Novato Planning Division shall be notified immediately and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontologist determines that the discovery is an important resource, the paleontologist shall, in consultation with the City Planning Division, devise and carry out a treatment plan for the resources. Appropriate actions may include avoidance, preservation in place, and/or scientific excavation, and documentation. The plan shall include provision for a written report documenting the find and describing steps taken to evaluate it and treat its important values.

The project applicant shall inform its contractor of the sensitivity of the project site for paleontological resources. The following directive shall be included in appropriate construction documents:

This construction site may contain fossils—the petrified remains of ancient plants or animals. If fossils are encountered during construction, all ground-disturbing activities within 50 feet shall be redirected and the project applicant shall notify the City of Novato Planning Division. A qualified paleontologist shall also be contacted to assess the situation and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any fossils or their surrounding soil. Several types of fossils may be present including snails, clam and oyster shells, and sponges; as well as fish, reptile, and mammal bones.

15. Mitigation Measure CULTURAL-3: If human remains are discovered during project activities, the procedures outlined in Section 7050.5 of the California Health and Safety Code shall be implemented. Work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and offer recommendations. Project personnel shall not collect or move any human remains and associated materials.

If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) who has 48 hours to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. If the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials at a location not subject to further subsurface disturbance.

The project applicant shall inform its contractor(s) of the appropriate procedures if human remains are encountered on the project site. The following directive shall be included in the appropriate construction documents:

If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, the project applicant shall notify the City of Novato Planning Division of the discovery, and a qualified archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

16. Mitigation Measure GEOLOGY-1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical report shall be prepared and submitted to the City of Novato for review and approval in accordance with adopted City standards. The structural designs shall adhere to the 2016 California Building Code (CBC), or more recent codes as applicable. Examples of the kinds of measures typical to meet these requirements include seismic performance standards; foundation design requirements; site preparation, fill, and compaction specifications; drainage requirements; and appropriate safety factors. The report shall also include a construction monitoring plan describing the timing and nature of inspections during construction to ensure that recommendations in the geotechnical report are implemented during project development. All design criteria and

specifications set forth in the design-level geotechnical report, including construction inspection and monitoring requirements, shall be implemented as a condition of permit approval.

17. Mitigation Measure NOISE-1: The following measures shall be incorporated into the proposed project to reduce exterior noise levels to 65 dBA Ldn or below and interior noise levels to 45 dBA Ldn or below:

- a. A solid 4-foot-high noise barrier enclosing the private ground-level courtyards at Buildings 4 and 9 along Redwood Boulevard, such as a solid 4-foot-high wood fence, shall be provided to reduce exterior noise levels. The barrier shall not have cracks or gaps in the face of the barrier or at its base and shall have a surface weight of at least 3 pounds per square foot. The gate in the fence shall be solid and have minimal cracks or gaps at its base or jamb. This barrier would provide up to 3 dBA of noise reduction from traffic noise levels along Redwood Boulevard, and would reduce future exterior noise levels to 65 dBA Ldn and below the City of Novato's threshold.
- b. A qualified acoustical consultant shall review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce interior noise levels to 45 dBA Ldn or lower. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, and protected ventilation openings. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City of Novato, along with the building plans and approved design, prior to issuance of a building permit. Based on preliminary calculations, the units of Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10 exposed to Redwood Boulevard traffic noise, would require windows and doors with minimum Sound Transmission Class (STC) ratings of 26 or 28.
- c. A suitable form of forced-air mechanical ventilation shall be provided, as determined by the local building official, for residential units proposed in Buildings 4 and 9 adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.

18. Mitigation Measure NOISE-2: Modification, placement, and operation of construction equipment are possible means for minimizing the impact on the existing sensitive receptors. Construction equipment shall be well-maintained and used judiciously to be as quiet as possible. Additionally, construction activities for the proposed project shall include the following best management practices to reduce noise from construction activities near sensitive land uses:

- a. Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall

be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.

- b. All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - c. Unnecessary idling of internal combustion engines shall be strictly prohibited.
  - d. Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.
  - e. "Quiet" air compressors and other stationary noise sources shall be used where technology exists.
  - f. Noise from construction workers' radios shall be controlled to a point where they are not audible at existing residences bordering the project site.
  - g. The developer shall issue a written notice to all businesses, residences, and other noise-sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.
  - h. In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.
  - i. A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.
19. Mitigation Measure TRANS-1: Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of storage.

The following conditions of approval shall be met to the satisfaction of the North Marin Water District:

20. Construction of new water distribution facilities and payment of connection fees shall be required before water service can be provided to the project. The developer must apply to the Water District, enter into an agreement with the District, and complete financial arrangements for new distribution facilities prior to recording the final map. Occupancy approval shall not be granted until water service installation and sign-off by the Water District.
21. The developer shall install both in-tract and off-tract potable and recycled water mains in compliance with the Water District's regulations and specifications. Provisions shall be made, as directed by the District, to provide for connection to the existing recycled water distribution main in Redwood Boulevard. The onsite irrigation system shall be designed to prevent run off onto areas not under control of the developer.
22. The developer shall dedicate easements where necessary for Water District facilities (both potable water and recycled water) to serve the proposed project. Separate fire services would be required for commercial/retail structures and separate meters for landscaping demands would also typically be provided.
23. The project shall be designed to meet the requirements of Water District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with the water conservation measures, as applicable, can be verified by the Water District.
24. The developer shall install an above-ground reduced pressure principle (RPP) backflow prevention device at the meter in accordance with Water District Regulation 6 and California Department of Health Regulations (Title 17). Upon installation, an inspection report (device testing) shall be completed and returned to the Water District prior to operation of the project.

The following conditions of approval shall be met by the Developer to the satisfaction of the Novato Fire Protection District:

25. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13R and Fire Protection Standard #401. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District should an upgrade for the domestic water meter be needed. Additional sizing may be required due to available pressures and fire flow.
26. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District to apply for fire service connection. Additional sizing may be required due to available pressures and fire flow.
27. All automatic fire sprinkler and fire alarm systems, flow switches, and control valves shall be monitored by an approved UL Central Station company, zoned, and enunciated as required by the Novato Fire District and Fire Protection Standard #400.



28. Fire hydrants capable of supplying 3,500 gallons per minute minimum will be required to be installed so that spacing between hydrants does not exceed 300 feet. The fire hydrant(s) shall be spotted by the Fire Marshal and contain at least one 4 and one half inch and one 2 and one half inch outlets. Installation shall conform to the specifications of the North Marin Water District.
29. Fire hydrants shall be tested and installed prior to framing.
30. Fire Hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a traffic "blue reflective marker" installed per NFD Standards.
31. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
32. Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways not less than 16 feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.
33. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
34. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
35. Knox key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.
36. A business shall create and maintain a pre-plan per Fire Protection District ordinance.
37. Permit application and associated fees shall be submitted with plan submittal package.
38. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
39. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
40. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.
41. If solar photovoltaic or alternative energy systems are proposed, then such systems shall conform to the 2013 CFC Chapter 6.

The following conditions of approval shall be met to the satisfaction of the Novato Public Works Department:

#### General Conditions of Approval

42. Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the City of Novato Design and Construction Standards (as modified by Memorandum dated 09/09/14), unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
43. Applicant shall be responsible for all City plan check, map check and inspection costs. The Applicant shall either pay the current fees of enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.
44. Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall identify include all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, telephone, cable television, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. Encroachment Permits will not be issued prior to the approval of the Improvement Plans.
45. All existing and proposed electrical and communications lines, service cabinets, and devices, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be approved by the appropriate utility company
46. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. This condition shall be satisfied prior to approval of the Improvement Plans.

47. A detailed Soils Investigation/Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

If at any time, prior to final acceptance of the project improvements, the City Engineer requests an independent geotechnical investigation and report, then an independent geotechnical engineer, shall be retained by the City at the applicant's expense, to conduct requested investigations.

48. A drainage report prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall also include an analysis of the 100-year storm overland flow.

49. Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans.

50. Prior to the approval of the Improvement Plans and prior to the issuance of any grading permit, the applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project. Proof of approval and/or clearances, including but not limited to, Pacific Gas and Electric Co., North Marin Water District, and the Novato Sanitary District shall be submitted to the City prior to approval of the improvement plans. A complete set of improvement plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.

51. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.

52. Applicant shall obtain signatures from representatives of the Novato Fire District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review of those plans prior to City approval.

53. The Applicant shall design and construct all new pedestrian walkways and handicap ramps to meet current ADA standard details.
54. All outside garbage facilities shall be designed to be fully enclosed with a roof meeting Marin County's storm water pollution prevention best management practices.
55. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil shall be noted in the improvement plans.
56. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of site distance to the satisfaction of the City Engineer.
57. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

Special Conditions of Approval:

58. The Applicant shall submit Improvement Plans prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Atherton Place Vesting Tentative Map (Sheets TM1.0 through TM6.1), prepared by Underwood & Rosenblum, Inc., dated August 18, 2017 (VTM).
59. All on-site (defined as within the subdivision boundaries) streets, parking lots, sidewalks, streetlights, storm drain facilities and stormwater quality facilities shall be privately owned and maintained.
60. Ranch Drive shall be widened to accommodate the construction of a new 8-foot wide parking lane along the project frontage from the proposed westerly driveway to Redwood Boulevard, as depicted on the VTM. The parking lane shall be constructed of reinforced pervious concrete and sloped away from the curb. A valley gutter shall be constructed to convey runoff. New 5.5-foot wide curb and sidewalk shall be constructed behind the new parking lane. See Section A on Sheet TM4.6 of the VTM.
61. Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of vehicle storage.
62. The existing 42" storm drain and fiber optic line along the Redwood Boulevard frontage shall be relocated and replaced within the existing street right-of-way. The existing storm drain shall be abandoned (removed).
63. The existing sidewalk along the Redwood Boulevard shall be removed and replaced with

new sidewalk matching the 11.5-foot width of the existing walk.

64. New directional pedestrian curb ramps shall be constructed at the northwest and southwest corners of the intersections of Pinheiro Circle/Redwood Boulevard and Ranch Drive/Redwood Boulevard. "Directional" means that the ramps shall point users directly in the path of travel through the north-south crosswalks. All pedestrian curb ramps shall meet the most recent ADA and Caltrans Standards.
65. All existing streetlights along the frontages shall be relocated and replaced with streetlights meeting current City standards.
66. Onsite and offsite storm drain improvements shall be constructed in accordance with City standards and sized according to the final approved drainage report.
67. Onsite and offsite stormwater treatment BMPs shall be constructed in accordance with the final approved SWCP.

Final Map Conditions of Approval:

68. A final map, as defined in the State Subdivision Map Act, shall be prepared by a licensed land surveyor or civil engineer. The Final Map shall show all parcels, rights-of-way, and easement(s), and shall be submitted to the City Engineer for review. The Final Map shall be in substantial conformance with the approved Vesting Tentative Map and all applicable conditions of approval. The Final Map is not valid until it has been approved by the City and recorded. Closure calculations shall be provided at the time of initial Final Map submittal. All calculated points within the map shall be based upon one common set of coordinates. All information shown on the Final Map shall be directly verifiable by information shown on the closure calculation printout. The point(s) of beginning shall be clearly defined. All lot sizes shall be shown on the Final Map and shall be verifiable from information shown on the closure calculation printout. A current title report (within past 30 days) shall be submitted at the time of initial Final Map submittal.
69. Easements in favor of North Marin Water District and the Novato Sanitary District shall be dedicated by separate instruments, to be recorded concurrently, and shown on the Final Map. The Applicant shall prepare all necessary legal descriptions and deeds and submit them to the City for review. After recordation, copies of the recorded deeds shall be submitted to the City.
70. The Applicant shall make the following irrevocable offers of dedication to the City for public purposes on the Final Map:
  - a. Street right-of-way along the entire Ranch Drive frontage of sufficient width to accommodate the proposed street widening and sidewalk relocation entirely within the street right-of-way (designated as "Area 3" on Sheet TM5.4 of the VTM).
  - b. Street right-of-way along the western end of the Pinheiro Circle frontage of

sufficient width to accommodate the existing curb and gutter within the street right of way (designated as “Area 1” on Sheet TM5.4 of the VTM).

- c. A storm drain easement at the southern end of the Redwood Boulevard frontage to accommodate the relocation of the existing 42” storm drain.
  - d. A public utility easement along the Ranch Drive frontage.
71. On the Final Map, the Applicant shall indicate that the common parcel is or will be dedicated to the Homeowner’s Association.
72. The Applicant shall transmit by certified mail a copy of the conditionally approved Tentative Map together with a copy of Section 66436 of the State Subdivision Map Act to each public entity or public utility that is an easement holder of record.
73. The Final Map shall not be approved prior to approval of the Improvement Plans.
74. Prior to approval of a final map or issuance of a grading permit, the Applicant shall either complete all of the onsite and offsite improvements to the satisfaction of the City Engineer, or enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all onsite and offsite improvements, including but not limited to, grading and construction of any curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities, to the satisfaction of the City Engineer. The Improvement Agreement shall be secured to guarantee the faithful performance of the agreement in the amount of 100% of the estimated cost of the improvements and for the payment of labor and materials in the amount of 100% of the estimated cost of the improvements. A certificate of occupancy shall not be issued for any structure until required improvements are completed to the satisfaction of the City Engineer.
75. Concurrent with the recordation of the Final Map, the Applicant shall establish a Homeowner’s Association (HOA) in accordance with State law with recorded Covenants, Conditions & Restrictions (CC&Rs) to provide long-term and ongoing maintenance of all common onsite improvements. Specifically, the HOA will be responsible for the long-term and ongoing maintenance of all streets, parking lots, sidewalks, streetlights, storm drain facilities, stormwater quality facilities, common garbage facilities, landscaping and other improvements within the HOA owned common parcel, except for park improvements within the Exclusive Park Use Easement. The CC&Rs shall be submitted to the to the City Engineer, Community Development Director, and City Attorney for review and approval prior to recordation.
76. The City will have enforcement authority over the HOA’s maintenance obligations and the obligation to review and approved proposed changes amendments to the CC&R’s. The CC&R’s shall require the HOA to create and maintain a separate maintenance reserve fund in the amount of a percentage of the cost of constructing the HOA maintained improvements listed above.

77. Prior to the approval of the Final Map, the Applicant shall pay fifty percent (50%) of the total Park In-lieu Fees. The remainder of the Park In-lieu Fees shall be paid prior to issuance of Building Permits. The total amount of the Park In-lieu Fees shall be calculated in accordance with NMC 9-20.008.

Construction Conditions of Approval:

78. Construction stormwater pollution prevention measures as indicated in the SWPPP shall be consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The project applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.
79. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.
80. A City of Novato Encroachment Permit shall be obtained prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
81. If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Service Department, the Novato Fire Protection District, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
82. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 12" in diameter and larger shall be professionally televised and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired to the satisfaction of the City Engineer.
83. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.

84. The following shall be added to the general notes on the civil plans, “All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways.”
85. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed and service connections stubbed out behind the sidewalk. Public utilities, Cable TV, sanitary sewers, and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
86. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
87. Utilities to be abandoned shall be removed, filled with suitable material and/or capped to the approval of the applicable utility agency and to the approval of the City Engineer.
88. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
89. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

#### Occupancy Conditions of Approval:

90. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
91. Prior to occupancy of any building, the Applicant shall submit for review and approval by the City Engineer, a Post-Construction Stormwater Operations and Maintenance Plan that provides an exhibit showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing inspection, maintenance and operation of all post-construction stormwater treatment facilities. Once approved, the property owner shall enter into an agreement (transferrable to the future Homeowner’s Association) with the City that provides the terms, conditions, and security



associated with the ongoing requirements of the Post Construction Stormwater Operations and Maintenance Plan.

92. Prior to occupancy of any building, the applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

93. Indemnity, Fee Notice, and Time Limitations

- a. In accordance with Government Code Section 66474.9, 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 approval 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. In the event that a claim, action, or proceeding described in subsection (a) 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 City.
- c. 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.
- d. In the event that a claim, action, or proceeding described in subsection (c) 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.

- e. 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.
- f. 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.
- g. 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.

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May 16, 2016

Novato Planning Department  
c/o Steve Marshall  
922 Machin Ave  
Novato, CA 94945  
*By Electronic Mail: [smarshall@novato.org](mailto:smarshall@novato.org)*

Re: Atherton Place Development

Dear Mr. Marshall,

As you are aware, after some early meetings, the Atherton Ranch Homeowners' Association Board requested that the undersigned attempt to facilitate a dialogue between the Atherton Ranch community and The Prado Group on their proposed development, Atherton Place. We were asked to present The Prado Group with a set of clear and reasonable demands regarding the development of the lots.

Over the last few months, we have conducted a number of meetings both with representatives of The Prado Group and with the community at large. As a result of these meetings, we are able to provide this letter expressing what we believe to be the community's views on the project and summarizing the progress made. At the outset, the community's main three concerns were open space between the two projects, a density appropriate to the location, and adequate guest and overflow parking for the residents of Atherton Place.

Progress over the months was incremental. On each of two occasions we took neighborhood concerns to The Prado Group, and they made changes to the development addressing the neighborhood concerns. Ultimately Prado revised the plan as depicted in the drawing accompanying this letter.

All residents of Atherton Ranch were provided with notice both informal, and through the HOA of a meeting to discuss this most recent Atherton Place plan. During the meeting, the committee members described the interactions with The Prado Group, the history of the involved parcels, the original Atherton Place plan, and the current Atherton Place plan.

Steve Marshall  
5/16/16  
Page 2

Open Space:

- During our discussions, the Prado Group was able to provide a sizable increase in the amount of open space between our two projects. This was accomplished through a combination of reduced unit count and relocation of their originally programmed open space from within the Atherton Place project to this location.
- The HOA will work directly with The Prado Group on shared use of this new enlarged green space to the benefit of both properties, and Prado Group has indicated that they will work in good faith with the HOA Board to set fair compensation to the Atherton Ranch HOA for a share of maintenance expenses to the existing park.

Density:

- The Prado Group has reduced the number of units from the original submittal of 59 units to 54 units in January and then to 51 units in the current proposal.

Parking:

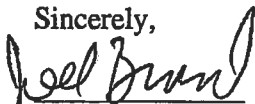
- At our suggestion, The Prado Group has removed the retail and its associated parking.
- Again, at our request, they have also increased the number of guest parking spaces from 30 in January to 37 in the current proposal.
- These spaces exclude the eight spaces to be shared with the Novato Rotary Senior Housing facility, located across Pinheiro from the proposed project. We understand that these eight spaces are not exclusive to this use, but available on a first come, first serve basis.


The attached site plan, created by the The Prado Group and dated April 8, 2016, graphically demonstrates these changes.

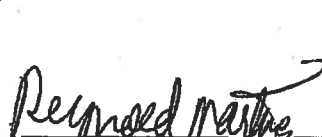
It is the view of the undersigned that there is now broad community support for the project in its current form. Moreover, the undersigned each personally support the project in its current form. Finally, we would each like to express our genuine appreciation for the collaborative manner with which The Prado Group approached the community.


Please do not hesitate to contact us should you wish to discuss this matter further.

Sincerely,

  
Joel Brand

  
Wayne Campbell

  
Reynold Martinez

  
Jonathan Smith

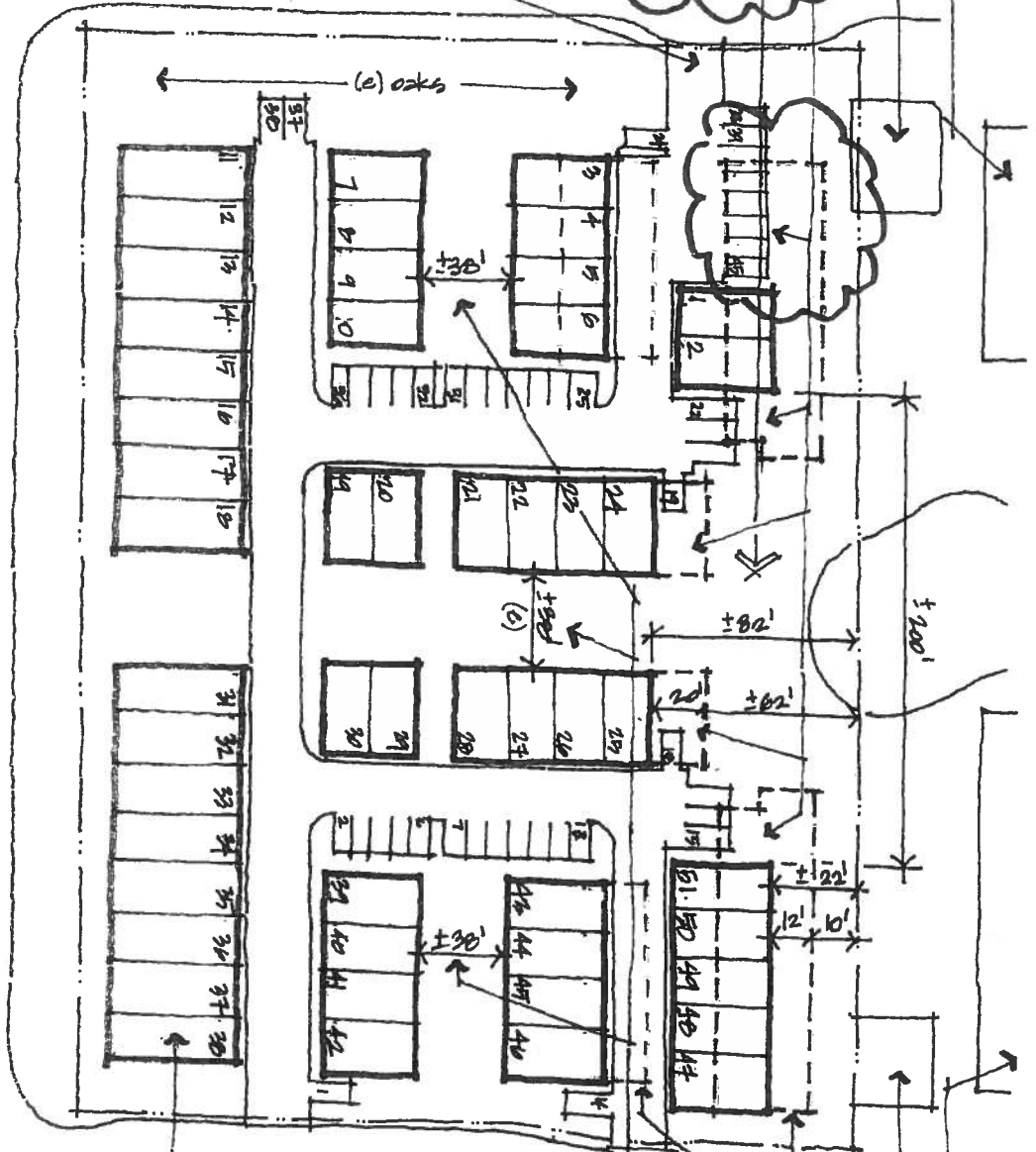
cc: Lisa Congdon -- The Prado Group (by Electronic Mail)

**NOTE:**  
 This conceptual plan has not been reviewed by the architect, the city or county of the property owner and may be modified upon their review.

**OPEN SPACE**  
 Removal of 7 units  
 creates approx 6400 sq ft (418 increase from previous design)

**PARKING (51 units)**  
 initial 231 112  
 guest 33: 1 17  
 N/A/R/O 5  
 required 137  
 proposed 147  
 proposed 147  
 proposed 147

driveway location determined by (a) auto



(a) Veterans  
 (a) playstructure

line of previously proposed bldg - typ.

reduced distance between bldgs to match earlier passage design and increase setback & (a) green space

remove retail from reduced (a) (a) (a) to units due to narrower townhome design - Va. longer retail foot print

**CONCEPTUAL SITE PLAN**

Attention Pluse, Nocate GA

REV 1 4 2 16  
 11.5.2010

## **NOVATO DESIGN REVIEW COMMISSION MEETING**

My name is WAYNE MCINTOSH and I represent a group of Home Owners and Residents of Atherton Ranch known as the Concerned Citizens of Atherton Ranch. Our approach has been to work with the Planning Department from 2015, rather than directly bargain with Prado.

After reviewing the amended plans from The Prado Group dated July 13<sup>th</sup> 2016, meeting with Planning Department staff again on Wednesday July 20<sup>th</sup> 2016, submitting the letter to the Commission dated Thursday July 21<sup>st</sup> 2016 and meeting with DON BRAGG and LISA CONGDON from the Prado Group on July 29<sup>th</sup> 2016, the Concerned Citizens of Atherton Ranch support the Planning Staff's recommendation to the Commission to approve the preliminary site design, massing and conceptual architecture and landscaping for Atherton Place as presented in the July 13<sup>th</sup> 2016 plans submitted, subject to the following 5 points:

1. **DRIVEWAYS, DENSITY AND PARK:** While we would have liked to have seen Townhouses with driveways to aid parking, especially for visitors, a further reduction in density and a corresponding increase in the width of the private park to have a true sharing of space, we understand that these issues have been fully reviewed by the planning process up to now and what is proposed is supported by the Planning staff and we will leave any further consideration, to the Commission.
2. **RANCH DRIVE EGRESS:** We support the 3 conditions of approval for Atherton Place when the project is presented to the Planning Commission and City Council regarding parking as discussed on page 5 of the Staff report, particularly the widening of the south side of Ranch Drive to provide 5 additional on-street

parking stalls along the northern boundary of Atherton Place. This will discourage illegal parking that would obstruct egress on Ranch Drive for Atherton Ranch residents. We request parking “*pockets or bays*” so that this part of Ranch Drive is not widened in the absence of parked cars, as that encourages speeding. However, subject to the traffic study we still support leaving the dedicated left turn in lane on Ranch Drive to avoid Atherton Place cars delaying Atherton Ranch cars returning home and/or backing up cars into Redwood Boulevard given its close proximity to this main thoroughfare and also because this is the main exit on the northern side of Ranch Drive for the Pinheiro House and Townhouses on Ranch Drive. We also request that the current turn in lane on Redwood Boulevard be enlarged to allow a safer transition by residents onto Ranch Drive out of the flow of Redwood Boulevard traffic, particularly if traffic lights are to be installed at this intersection in the future.

3. **TWO ADDITIONAL PLAY STRUCTURES:** As the staff report addresses, some play structures should be added to the plan due to the expected increase in use of the existing private park by Atherton Place residents. We see there is space on the plan adjacent to the existing play structure at the Pinheiro edge of the park facing Nova-Ro and space in the middle of the park near the proposed barbeque areas. The exact location and type to be determined through the planning process although we see a doubling of the existing play structures adjacent to and abutting on to the park as a minimum addition to the ones shown on the July 13<sup>th</sup> plan in other locations within Atherton Place.

4. **PARK MAINTENANCE/RECIPROCAL USE AGREEMENT:** Since Atherton Ranch is providing most of the park area, Atherton Place should reimburse Atherton Ranch 100%

of the operating costs of the park including landscaping maintenance charges for grass, shrubs and trees, sidewalks and insurance costs. Also the water and electricity for the existing park to be separately metered and paid for by Atherton Place. **Payment, instead of equal land space to be the quid pro quo.** Atherton Ranch would covenant to maintain its park in its current condition. Atherton Place & Atherton Ranch residents could be given a reciprocal easement and/or a **Reciprocal Use Agreement could be put in place as required by the Staff report for the Prado proposal to advance to the Planning Commission and City Council. And finally...**

5. **VICTORIAN ARCHITECTURE:** Three sides surrounding Atherton Place have Victorian Architecture, comprised of the Nova-Ro 40 Unit two story seniors' apartment complex, the former Pinheiro House and the 23, three story townhouses on Ranch Drive and those facing the private park. The Craftsman style as presented does not reflect the architectural detail of the Victorian style of the above structures and we would like to see the end result of these 3 facades facing out from Atherton Place to be more in harmony with the existing architecture that they confront. The DRC is requested to look not just at the façade of the townhouses facing the private park mentioned in the Staff report but also those lining Ranch Drive and Pinheiro Circle. This could be addressed in any number of ways other than structurally, like covered porches and window treatments. The use of more sympathetic color schemes, materials, adding of fine details like finials and/or even landscaping and the use of similar existing tree types would all help to smooth the transition between Atherton Place and Atherton Ranch, particularly at the private park location.

THANK YOU.



Delivered  
 @ DRC Hearing  
 8/3/16

**CONCERNED CITIZENS OF ATHERTON RANCH**

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SIGNATURE(S):

David Beauchamp

PRINT NAME(S):

DAVID BEAUCHAMP

ADDRESS:

97 RANCH DR.

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SIGNATURE(S):                     K-Anusha                    

PRINT NAME(S):                     Anusha Kolla                    

ADDRESS:                     79 Pinheiro Cir, Novato, CA-94945

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SIGNATURE(S):

*Janet Salger*

PRINT NAME(S):

*Janet Salger*

ADDRESS:

*84 Pinheiro Cir.*

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PRINT NAME(S):

Kathleen M. Tobin

ADDRESS:

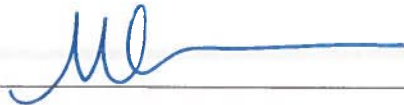
75 Pinheiro Circle Novato

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PRINT NAME(S):

Moy Chiu

ADDRESS:

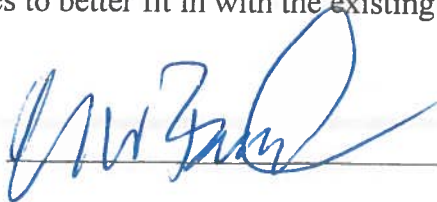
78 Ranch Dr.

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PRINT NAME(S):

Chris W. Burston

ADDRESS:

41 Finhedro Cir Novato, CA 94945

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WAYNE MCINTOSH

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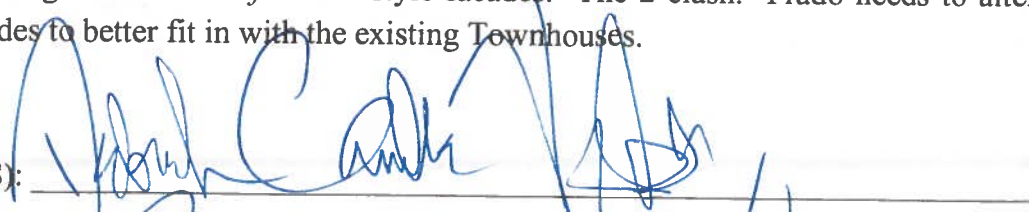
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PRINT NAME(S):

Deborah Camilla Vitale

ADDRESS:

125 Pinheiro Circle



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SIGNATURE(S): Uma Rajagopal

PRINT NAME(S): UMA RASAGOPAL

ADDRESS: 85 Pinheiro Circle, Novato CA 94945

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SIGNATURE(S):



PRINT NAME(S):

Tom Lory

ADDRESS:

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*James M. Tobin*

PRINT NAME(S): \_\_\_\_\_

JAMES M. TOBIN

ADDRESS: \_\_\_\_\_

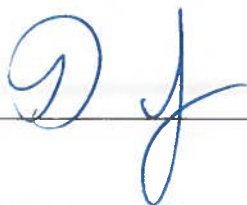
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PRINT NAME(S):

DAVID SALYER

ADDRESS:

84 PINHEIRO CIRCLE

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SIGNATURE(S): \_\_\_\_\_

*Diana Mendoza*

PRINT NAME(S): \_\_\_\_\_

*Diana Mendoza*

ADDRESS: \_\_\_\_\_

*205 Ranch Ct.*

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PRINT NAME(S): \_\_\_\_\_

Bette Solis

ADDRESS: \_\_\_\_\_

200 RANCH Ct.

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SIGNATURE(S):



PRINT NAME(S):

Scott Seki

ADDRESS:

209 RANCH DR

**CONCERNED CITIZENS OF ATHERTON RANCH**

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SIGNATURE(S):

ATRIZ

PRINT NAME(S):

ANTHONY TOURN

ADDRESS:

108 Pinheiro Cir



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SIGNATURE(S): \_\_\_\_\_



PRINT NAME(S): \_\_\_\_\_

Edgar Mendoza

ADDRESS: \_\_\_\_\_

205 Ranch Ct

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SIGNATURE(S): Chandra Sekhar

PRINT NAME(S): CHANDRA SEKHAR DANCHUMARTHI

ADDRESS: 79 PINHEIRO CIR, NOVATO, CA - 94945

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SIGNATURE(S):



PRINT NAME(S):

Rebecca McIntosh

ADDRESS:

89 Pinheiro Circle, Novato

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SIGNATURE(S):

N. Burston

PRINT NAME(S):

Nichole Burston

ADDRESS:

81 Pinheiro Cir., Novato 94945

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SIGNATURE(S): \_\_\_\_\_

*Tim P Troy*  
7

PRINT NAME(S): \_\_\_\_\_

*Tim P Troy*

ADDRESS: \_\_\_\_\_

*74 Ranch Dr.*

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SIGNATURE(S): D. B. Bonacci

PRINT NAME(S): Diane E. Bonacci

ADDRESS: 214 Ranch Ct

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SIGNATURE(S):

April Beauchamp

PRINT NAME(S):

April Beauchamp

ADDRESS:

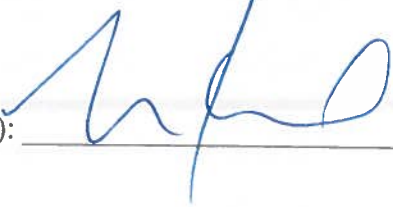
97 Ranch Drive

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SIGNATURE(S): \_\_\_\_\_



PRINT NAME(S): \_\_\_\_\_

Meredith Kelchen

ADDRESS: \_\_\_\_\_

93 Ranch Dr. Novato, CA 94945



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SIGNATURE(S):



PRINT NAME(S):

Rebecca Tourn

ADDRESS:

108 Pinheiro Cir.

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SIGNATURE(S): Udipi Rajagopal

PRINT NAME(S): UDUPI RAJAGOPAL


ADDRESS: 85 Pinheiro Cir

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SIGNATURE(S):



PRINT NAME(S):

Joseph Knecht

ADDRESS:

22 Pinheiro, Novato, CA

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SIGNATURE(S): Anne Clark

PRINT NAME(S): Anne Clark

ADDRESS: 132 Pinheiro Circle

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SIGNATURE(S): \_\_\_\_\_

*Annette Seky*

PRINT NAME(S): \_\_\_\_\_

*Annette Seky*

ADDRESS: \_\_\_\_\_

*209 Ranch Ct.*

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SIGNATURE(S): \_\_\_\_\_



PRINT NAME(S): \_\_\_\_\_

Herman Clark

ADDRESS: \_\_\_\_\_

132 Pinheiro Circle

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SIGNATURE(S): \_\_\_\_\_

*Georgie Allen*

PRINT NAME(S): \_\_\_\_\_

*georgie Allen*

ADDRESS: \_\_\_\_\_

*26 Pinheiro*

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SIGNATURE(S):



PRINT NAME(S):

AMIT MATHESHWARI

ADDRESS:

112 PINHEIRO CIR NOVATO CA 94945



## CONCERNED CITIZENS OF ATHERTON RANCH

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SIGNATURE(S):



PRINT NAME(S):

KEVEN P. LYONS

ADDRESS:

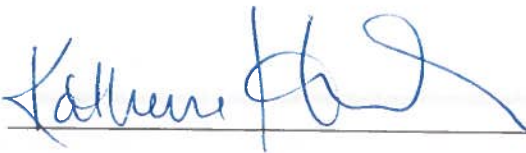
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SIGNATURE(S):



PRINT NAME(S):

Katherine Hamlin

ADDRESS:

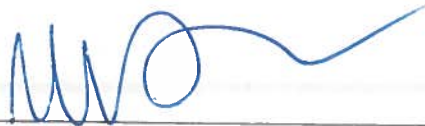
14 Pinheiro Circle

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SIGNATURE(S):



PRINT NAME(S):

Michael Thompson

ADDRESS:

137 Pinheiro Circle Novato, CA

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SIGNATURE(S): Edwin A Verde

PRINT NAME(S): EDWIN A VERDE

ADDRESS: 133 PINHEIRO CIRCU NOVATO CA

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SIGNATURE(S): \_\_\_\_\_



PRINT NAME(S): \_\_\_\_\_

Michael Kelchen

ADDRESS: \_\_\_\_\_

93 Ranch Dr

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Venus Aneli

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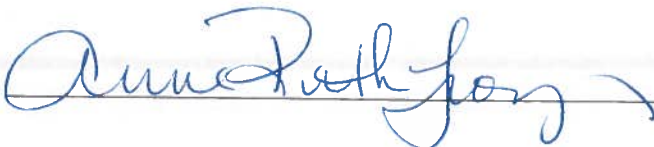
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SIGNATURE(S):



PRINT NAME(S):

Anne Troy

ADDRESS:

74 Ranch

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SIGNATURE(S): \_\_\_\_\_



PRINT NAME(S): \_\_\_\_\_

Thomas R. Byron

ADDRESS: \_\_\_\_\_

214 RANCH CT



October 31, 2017

To: Novato Planning Commission

Re: Atherton Place avoids building affordable housing

We see that Atherton Place developers “chose to pay in-lieu fees, as opposed to setting aside 20 percent of units as “affordable.” We the undersigned oppose this avoidance of building affordable housing, especially because this site is perfect for affordable units: close to transit, shopping, and entertainment. It is sad to waste such a great location. Novato is often a leader in affordable housing, but not so here.

The in-lieu fees of about \$600,000 may help build future affordable housing, but the tradeoff is poor since the fee will not cover the buy-down cost of making 20% of those units affordable. Further, the Marin Grand Jury reported that in-lieu fees often don't get used for affordable housing in Marin, though we note that Novato has been better than the county generally, and has used in-lieu fees to help fund Habitat for Humanity, Oma Village and Warner Creek.

We strongly oppose Atherton Place's avoidance of building affordable housing, and we hope that future developments are not given this pass. The Marin Environmental Housing Collaborative estimates that over 50,000 of the workers that serve us must commute into Marin because there is no affordable housing. And especially after the tragic loss of 8,000 residences in the North Bay by fire, we need affordable housing.

Governor Brown has recently signed a package of 15 bills aimed at increasing the stock of affordable housing, so it is especially disappointing that the first project in Novato since then avoids it in a location that is perfect for it. We want to send the message that we need affordable housing in such locations.

Sincerely,

Michael Hagerty, Marin Commission on Aging  
Beth Livoti, Marin Commission on Aging  
Marianne York, Marin Commission on Aging  
Gloria Violin-Dunn, Age Friendly Novato  
Jean Gunn, Novato Village Steering Committee

## Steve Marshall

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**From:** Bob Brown  
**Sent:** Tuesday, October 24, 2017 4:00 PM  
**To:** Steve Marshall  
**Subject:** FW: Atherton Place - Planning Commission Hearing November 6th 2017

### Bob Brown

Community Development Director  
922 Machin Avenue  
Novato, CA 94945  
415-899-8938

 Please consider the environment before printing this email.

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**From:** Wayne McIntosh [mailto:wayne@marinfamilylawyers.com]  
**Sent:** Monday, October 23, 2017 11:06 PM  
**To:** Bob Brown <bbrown@novato.org>  
**Subject:** Atherton Place - Planning Commission Hearing November 6th 2017

Pursuant to the **CITY OF NOVATO NOTICE OF PUBLIC HEARING** mailed to my home at 89 Pinheiro Circle Novato within the Atherton Ranch development and received on October 19<sup>th</sup> 2017 regarding the Planning Commission Hearing on November 6th at 7:00 pm at the Novato City Hall, 901 Sherman Avenue, Novato **I submit the following issues:**

### **PRADO'S "NEGOTIATIONS"**

I understand that the Planning Commission will be presented with 2 proposals for 7533 & 7537 Redwood Boulevard APNs: 125-600-51 & 52, ("**the Prado Land**"). One will be an open plan allowing free and open access and use of the Atherton Ranch private Park and a second plan employing a fence blocking off the Park from Atherton Place. The first plan would have required an agreement for the use of the Atherton Ranch private Park which is not likely to eventuate with Prado for the reasons explained below. They are just not interested. The Prado Land is being managed by Prado Group on behalf of as yet unknown investors. Neither Prado Group, its Directors or employees or the investors that own the Prado Land, formerly owned by Dan Morgan, have indicated or made known any close connection, historical or lasting

relationship with Marin County, or Novato, let alone the existing residential development that Atherton Place will impact the most, **Atherton Ranch**. Their motivation is a to finally realize a large profit through a residential development (although it is technically classed as “*Mixed Use*” because of the token small retail space on one corner, possibly going to be a small coffee shop or similar) from the vacant land that has sat there since 2000, when it was not developed for commercial use as originally intended due to a lack of demand for such space in Novato. Prado have worked diligently with the Council Planners to design a project that meets and complies with all minimum zoning and planning requirements. The current proposal has some good features and overall it will bring in a lot or revenue for the City, revenue that is sorely needed for our budget. Prado’s initial plan as presented to a large number of Atherton Ranch Residents on November 3<sup>rd</sup> 2015 by a power point presentation which would have been an illegal land grab as it had a proposal to fence off all of the Prado Land and build 59 Units, which would have narrowed the existing park by up to 20 feet in places and denied Atherton Ranch residents access to their Park Use Easement which extends along the full length of the boundary of the Atherton Ranch private park and the Prado Land. That was quickly changed during the meeting and we were shown a second plan showing set-backs but as it turned out Prado could never have built to their boundary line in the first place. Prado were aware of the **Park Use Easement** that Atherton Ranch enjoyed over their land in addition to the issues they had with various drainage easements but they presented their second version as if they were in fact making some grand magnanimous gesture to us; as if they were doing US a favor!. Nothing could have been further from the truth. It was total flim flam. They said nothing about a Park Use Easement as the reason for the quick redesign with the set-backs. They were just good people. Clever.

This total disregard for the rights of Atherton Ranch Residents has continued as Prado have pursued a policy of maximizing profits at all costs to satisfy the demands of their investors and to justify their large management and “*success*” fees. In late 2016 after nearly a year of silence, Prado suddenly appeared without notice (they were not on the Agenda) at a private Atherton Ranch Owners Association Board meeting (none of the Prado representatives were Atherton

Ranch Association owners) and verbally offered the Board a deal. A \$30,000 one off payment to upgrade our play structures and \$6,000 a year financial contribution subject to a CPI annual adjustment in return for open access to all of our private park for all their Residents in perpetuity. No other conditions were mentioned and we were told we would soon have their offer in writing, so we waited and waited. The reason for the deal? **Prado wants access to our Park to maximize the profits that can be generated from the sale of the 50 Townhouses.** Prado were working off a site massing approved by the Design Review Commission way back in February 2016. The Board is unaware why it took Prado so long to make a proposal in 2016 and then only a verbal one with zero details between February 2016 and December 2016. The Board waited for months and months and finally in March 2017 the Board was presented with a Memorandum of Understanding that contained the above terms but now Prado wanted to build 2 parking bays on the Park Use Easement, even though they did not need these extra bays for zoning or planning requirements. **It was a totally unnecessary demand.** Prado demanded that Atherton Ranch Owners give up the exclusive Park Use Easement to enable them to do this. The Board at the cost of thousands of dollars enlisted the help of not only its long time lawyer Glenn Youngling, to make sense of this crazy offer but brought in a well-known mediation expert, lawyer Luanne Rutherford to try and get Prado to talk sense to us, but even Ms. Rutherford could make zero headway with Prado and soon gave up trying. Her legal fees incurred in good faith and those of Mr. Youngling turned out to be a total waste of money. Even after it was explained to Prado's lawyers that **such a request regarding the easement would be impossible to achieve** as all 114 owners would have to agree as well as their secured lenders, Prado would not back down from their demands, which were made in bad faith. It was also explained to Prado the annual cost of running the park was about \$42,000 a year and increasing with rising water and gardening costs and that the \$6,000 offered by Prado would only cover the maintenance costs of the Park Use Easement strip of land which Prado had an obligation, since it was their land anyway, to maintain at their expense, at no cost to Atherton Ranch owners. **In other words Prado were offering us nothing that they would not otherwise have to pay anyway.** Any attempt to discuss or negotiate the annual contribution was met with more stonewalling. So not only was the offer not made in good faith

but their “*negotiations*”, if you can call them that, were also not made in good faith. Prado would not back down or alter their offer one bit, knowing we could never reach a deal. Prado was totally unreasonable, aloof, and their lawyer’s letter received by the Board a few months ago totally dismissed Atherton Ranch Board’s invitations to discuss the matter further, calling it a waste of time and he refused to meet with us or even have a meeting, ever. **Such dismissal is further proof of Prado’s bad faith intentions.** Prado for their part has characterized Atherton Ranch as being inflexible and even unreasonable. Nothing could be further from the truth. Prado made a sham offer, an unreasonably low offer that they knew would never be accepted and then they unnecessarily added in the complication of the easement alteration for 2 parking spaces they did not even need and then they refused to even discuss it with the Board and then used that offer as a pretext with the City Planners to overcome the Planning Department’s initial recommendation to the Design Review Commission not to recommend advancing the Prado development unless and until Prado came to an agreement with Atherton Ranch for the shared use of the Atherton Ranch private park. The simple truth is that Prado is a very accomplished and clever organization and their strategy has worked, as without any type of agreement with Atherton Ranch, they have managed to get their plan to the Planning Commission. Mission accomplished.

In summary, the fact that Prado made an offer that the Board was prevented from approving and in fact was prohibited from approving under the Atherton Ranch Bylaws, 3.3.1 and could NEVER have obtained 100% acceptance of by its members and all their secured lenders to release the Park Use Easement but that Prado can now proceed to the Planning Commission without any agreement at all from the Atherton Ranch Owners Association in direct contravention of the initial Planning Department’s recommendation to the Design Review Commission, shows just how cunning they are as developers. They are brilliant. They get exactly what they want.

Prado’s approach will be to just go ahead and build what they were going to build in the first place, being the maximum allowed by the City Planners. 50 townhouses plus a token retail

space possibly a coffee shop to satisfy the mixed use designation. This is what Prado have wanted all along and now they have it. We have absolutely no idea when or if Prado will ever build a fence or what it will look like as we cannot even see a fence on the plans. Most likely Prado will just leave up the chain link fence which may very well give a prospective buyer the impression that the fence is “*temporary*” and it would not take much for any buyer to imagine with or without “*assistance*” from a clever real estate agent, working for a commission that of course increases in size the higher the price they can obtain, that they only have to walk out their door to enjoy our private park. We already have notices that state it is Private Property, which are often ignored by our surrounding neighbors who bring in their dogs to defecate on our common property and Prado can reasonably assume that they will be able to extract a premium from just having a great looking Park adjacent to their development and not saying very much “*officially*” to prospective buyers. It is a clever ploy. **What we need are notices in BOLD and CAPITALS in all selling documents and promotional brochures and materials as well as the CC&Rs and signs erected that make it clear the Park is a private park, Atherton Place Residents are prohibited from entering on the Park grounds at all times and they are not to breach the fence boundary or walk around to access our private land.**

## WHAT IS ATHERTON RANCH?

Atherton Ranch is comprised of 114 dwellings with an estimated over 300 residents. There are 23 Townhouses built in 4 blocks located on 2 sides of the proposed Prado development, constructed in the Victorian style similar to the original farmhouse now converted to offices and located at the corner of Redwood Boulevard and Ranch Drive which also opposite the development, with the remainder being 91 detached single residences in the Craftsman style as well as a developed park of 0.71 acres immediately abutting the Atherton Place land and 2 undeveloped open spaces making up 40 acres in total. It is an impressive varied development with the Townhouses under 2,000 sqft and some larger homes on elevated lots almost 4,000 sqft, with many different sizes and designs in between. The office building/old farmhouse while part of the Atherton Ranch Development Plan is not part of the HOA and is still owned by Dan Morgan.

## **PRADO'S CLEVER APPROACH**

Initially Prado presented a plan that had a straight fence running along the length of our park and they verbally indicated that their land boundary could mean that in places they could reduce the width of the Park by 20 feet. That really shocked and upset people in November 2015 and initially motivated a group of us to get together to oppose the development and to try and work with Prado to widen, not narrow our Park. We should not have been so worried. It was soon discovered that Atherton Ranch is the beneficiary of a Park Use Easement which is roughly where the Prado chain link fence currently is. Hence its set back from the grass edge of our park. This Easement along with the Design Review Commission's workshop in February 2016 under the direction of Steve Marshall, Novato City Council's Planning Manager forced the redesign of the site massing and a reduction from 59 to 50 Units, that was approved by the City's Design Review Commission in February 2016. The threat of having our park narrowed, which no one wanted, went away and instead Prado gave us a low ball offer detailed above in March 2017 to at least be able to claim they "*tried*" to negotiate with us, which they would not discuss or negotiate at all and then Prado proceeded with an alternative request with apparently a slightly more attractive fence than the current chain link fence which is a cheaper alternative for them.

Prado's offer apart from the \$30,000 carrot for us to buy new play equipment their Residents could use was in effect \$6,000 a year to pay to mow the Park Use Easement. Nothing more. It was and is a ridiculous, cheap and unacceptable offer. It was also unnecessarily mean because Prado would never end up paying one cent of the contribution for Atherton Place residents to use our park. The Residents will pay each month in their HOA fees just like we do. With 50 Units a contribution of just \$70 a month from each Atherton Place Resident would be \$42,000 a year, enough to pay 100% of the total annual maintenance costs of the Park. \$6,000 a year would only be \$10 a month per townhouse which is less than the \$33 Atherton Ranch residents currently pay each month. Why should Atherton Place (Prado) Residents pay a third of what Atherton Ranch Residents pay, when we own the Park? It makes no sense. The request that

Atherton Place Residents pay more than \$6,000 to use a park we own, was reasonable and fair. In reality the offer from Prado did not widen our Park if you include the extra area of the Park Use Easement which is the area between the grass and the fence where the ground is covered in bark. You can readily see this on their amended plans. Prado are building as close to the edge of our Park Use Easement as they can, allowing for set-backs and drainage easements, to maximize the number of Townhouses and their profit for their unnamed investors who sit secretly in the shadows waiting for their payday with no regard for our long term well-being.

**Prado and their masters are not giving us anything.**

What they wanted was for US, to give up the Park Use Easement so they could construct two extra parking bays on the easement which was designed in the first place to protect the Park from exactly this type of development so our Park would not be crowded out by development. Something Prado initially wanted to do in the name of profit until they were stopped by our easements. The fact that Prado has made us a lousy offer that is impossible for us to even accept as is, all in the name of profits, should therefore not surprise us. Every homeowner and every lender would have had to agree to Prado's land grab, which is not feasible and it would not have been of any benefit to us, only to Prado. It appears Prado's fence proposal will find favor with the Planning Commission and finally with the Council to enable the Atherton Place development to commence. The City wants this infill project to proceed for many reasons and we have to remember that Atherton Ranch itself was considered an infill project of 40 acres back in 2000. Approval is almost certain to be granted in some form as Prado have proposed a development that meets all planning minimum requirements.

**Therefore what we are seeking from the Planning Commission are some protections for Atherton Ranch Residents from the worst expected elements of the development which will soon be with us so we will not suffer.**

**PARKING COVENANTS:**



The major concern has been parking. With no driveways in Atherton Place, it is essential that the CC&Rs for Atherton Place require Residents to actually park in their garages and for the City to be a third party beneficiary of that covenant so it cannot be changed. It would be useful for Atherton Ranch to also be a beneficiary so we can enforce the Covenant as it is unlikely the City ever would. Otherwise they will end up filling their garages with “*stuff*” as so often happens and parking elsewhere (they have no driveways) clogging our streets as they only have 43 on street car spaces (down from the stated 45 spaces) for 51 Units and 8 of those inside the development have to be shared with Nova Ro III located on Pinheiro Circle due to a historical deal struck when Atherton Ranch was being built. So the quoted 145 parking spaces (actually now 143 as they cannot build 2 spaces on our Park Use Easement) parking spaces is technically correct as it includes two garage spaces in each of the 50 Townhouses. But in reality they only have 35 on street car spaces for their own use. There will never be enough parking for Atherton Place Residents which is why the Atherton Ranch Board has already had discussions with Steve Marshall about having Permitted Parking inside Atherton Ranch to protect the 60 Parking Bays we have for 114 homes. Our 60 bays are always full at night even though we have our driveways as well as our garages for Parking. It will be a total mess in Atherton Place if garages are not kept clear and used as they have no driveways. It is easy to see the problem for us in 2-3 years when Prado have been paid their management fee and are long gone, sipping caviar on their yachts in the Bay. **Accordingly a condition of approval should be granting Atherton Ranch Permit parking for overnight parking in our 60 parking bays only for Atherton Ranch Residents and Atherton Place residents should be prohibited from using any of the 60 parking bays for any reason 24/7 or they will fill then up during the day and “forget” to remove them at night.**

The current plan does show some additional parking bays along Ranch Drive between Redwood Boulevard and Pinheiro Circle, that were part of the requests in the Petition signed by 60 Atherton Ranch Residents submitted to the DRC in February 2016 and we thank the City Planners for making sure these are included in the Plan before the Planning Commission. These parking bays are fully supported and requested as they will discourage double parking which would otherwise impeded ingress and egress for Atherton Ranch Residents along Ranch Drive.

## **COLOR PALETTE:**

At some point the whole thing will end up back where it started with the Design Review Commission to finalize architectural details and color palette. This could be as impactful as anything else. Prado first proposed battleship green for all buildings. Because, it was cheaper of course, to paint in one color. **We are seeking a more sensitive approach especially for the Townhouses that face onto the Park so that at least for those buildings the color scheme is in harmony with existing Atherton Ranch Townhomes so we have a pleasing aspect as we enjoy walking in our park.**

I have had the honor of being elected and serving on the Atherton Ranch Owners Association Board since 2016 and I am currently its Acting President although the views contained above are mine and mine alone as an Owner and full time Resident of Atherton Ranch and are not reflective of any Board resolution or position. I also want to express my thanks for the professional and friendly way in which any of my enquiries have been handled in the past by Mr. Bob Brown, Community Development Director and also by Mr. Steve Marshall, City Planning Manager.

## **SUMMARY OF REQUESTS TO PLANNING COMMISSION**

1. **PRIVATE PARK:** Notices in BOLD and CAPITALS in all Atherton Place selling documents and promotional brochures and materials as well as the CC&Rs and signs erected that make it clear the Atherton Ranch Park is a private park, Atherton Place Residents are prohibited from entering on the Park grounds at all times and they are not to breach the fence boundary or walk around to access our private land.
2. **PARKING COVENANTS:** A condition of approval granting Atherton Ranch, Permit Parking for overnight parking in our 60 parking bays on Ranch Drive and Pinheiro Circle only for Atherton Ranch Residents and Atherton Place Residents be prohibited from using any of the 60 parking bays within Atherton Ranch for any reason 24/7.

3. **GARAGE COVENANTS:** In the Atherton Place CC&Rs there needs to be a covenant not only requiring Atherton Place residents to keep their garages clear for use as garages and that they are not to be repurposed for any other purpose such as for storage, home gym, play house etc. but that Atherton Place Residents have a positive obligation and are required to always park their vehicles inside their garages whenever they are driving within or near to the Atherton Place development. This is designed to prevent them trying to avoid enforcement by parking outside the development. Enforcement will need monthly garage inspections by the HOA Manager and the City needs to be a third party beneficiary of these CC&R provisions so they cannot be altered by the Residents in the future. Further make Atherton Ranch a third party beneficiary for the purpose of enforcing the covenants in Court or the City can assign that power to us.
4. **FENCE BOND:** Prado to pay a sufficient bond to the City to erect a fence along the length of the Park Use Easement, in the event they fail to do so, such bond to be paid forthwith and as a condition of proceeding to the City Council.
5. **COLOR PALETTE:** A recommendation to the Design Review Commission to consider harmonizing the color palette with the Victorian Townhouses in Atherton Ranch especially with those facing onto the Private Park.

Thank you for your consideration of these issues and requests.

**Mr. Wayne K. D. McIntosh** *B.Com., L.L.B., \*C.F.L.S., A.C.F.L.S.*  
*Attorney and Counselor at Law*

## MARIN FAMILY LAWYERS

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## Steve Marshall

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**From:** Richard & Susan <rbaileyporter@gmail.com>  
**Sent:** Monday, October 23, 2017 12:11 PM  
**To:** Steve Marshall  
**Subject:** Atherton Place

This development should be required to provide 20% affordable housing. It should not be grandfathered.

There is a desperate need for housing in Marin. This has been exacerbated by the loss of 7,000+ structures a few miles to the north.

When our children and neighbors cannot afford a place to live, what are they to do?

Richard Bailey  
415-493-6909  
660 Plum St.  
Novato

