



THE CITY OF  
NOVATO  
CALIFORNIA

922 Machin Avenue  
Novato, CA 94945-3232  
(415) 899-8900  
FAX (415) 899-8213  
[www.novato.org](http://www.novato.org)

**PLANNING COMMISSION STAFF REPORT**

MEETING

DATE: September 17, 2018

STAFF: Brett Walker, Senior Planner  
(415) 493-4711; [bwalker@novato.org](mailto:bwalker@novato.org)

SUBJECT: **RESIDENCE INN - NOVATO; FILE P2017-055:  
PUBLIC HEARING AND POSSIBLE ACTION REGARDING  
RECOMMENDATION FOR A CEQA MITIGATED NEGATIVE DECLARATION;  
ZONING MAP AMENDMENT (REZONE), MASTER PLAN, PRECISE  
DEVELOPMENT PLAN, AND DESIGN REVIEW; AND ADOPTION OF  
GENERAL PLAN CONSISTENCY FINDINGS REGARDING A VACATION OF A  
RELINQUISHMENT OF ABUTTER’S RIGHTS  
APN 143-011-06; 7546 REDWOOD BLVD.  
APN 143-011-05; 7530 REDWOOD BLVD. (Vacation Only)**

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**REQUESTED ACTION**

Hold a public hearing and adopt resolutions providing recommendations to the City Council regarding a mitigated negative declaration (IS/MND), zoning map amendment (rezone), master plan/precise development plan/design review, and the adoption of general plan consistency findings relating to a vacation of a relinquishment of abutter’s rights for the Residence Inn – Novato project.

**EXECUTIVE SUMMARY**

The applicant requests approval to rezone and develop a 3.05-acre lot with a 103-room hotel and an 8,000-square-foot commercial building. The proposed 77,532-square-foot hotel would be located in a 3 – 4 story building with a maximum height of 53 feet. The 8,000-square-foot commercial building would be one story and front onto Redwood Blvd. The project site is located on the east side of Redwood Blvd. and on the south side of Golden Gate Place. A site vicinity aerial image is included as Figure 1 on Page 3, and the entire plan set and other project documents are available to view and download on the City’s project webpage at [www.novato.org/residenceinn](http://www.novato.org/residenceinn).

Existing site conditions: The lot is improved with structures associated with the Dairymen’s Milling Company, and is currently used as a feed store. All of the existing improvements would be demolished should this project be approved. The property generally slopes from west to east. Elevations at the site range from approximately 13 feet down to 7 feet above mean sea level.

The applicant is requesting the following approvals associated with the Project:

- Environmental Review - Adoption of a Mitigated Negative Declaration to comply with the California Environmental Quality Act (CEQA);
- Zoning Map Amendment (Rezone) – A rezone from Commercial/Industrial (CI) to Planned District

- Master Plan (MP), Precise Development Plan (PDP), and Design Review approval – A Master Plan and Precise Development Plan are a required component for the development of land zoned Planned District. The MP includes a map exhibit and text prescribing permitted use and development intensity for the project site. The PDP includes site planning and development standards such as lot coverage, setbacks, and height limitations. Design Review is a component of the PDP and includes the design aspects of the proposed development, including site design, landscaping, and building architecture;
- Vacation of a Waiver of Abutter’s Rights for access onto Redwood Blvd, including a 12-foot wide area of APN 143-011-05, currently owned by ROIC California, LLC.

Environmental Review: An Initial Study was prepared for the proposed project and its associated entitlement actions pursuant to the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City of Novato Environmental Review Guidelines. The Initial Study concluded the project could result in potentially significant impacts in the CEQA categories of Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources. The Initial Study recommends several feasible mitigation measures to avoid or reduce the significance of the identified impacts to a less than significant level. Given the findings and mitigation measures contained in the Initial Study, a Mitigated Negative Declaration is recommended to be adopted for the project. The Initial Study/Mitigated Negative Declaration (IS/MND), dated August 2018, is available to view and download on the City’s project webpage at [www.novato.org/residenceinn](http://www.novato.org/residenceinn).

The project and its associated entitlement actions were reviewed against applicable policies of the Novato General Plan, applicable submittal requirements for a rezone, master plan, precise development plan, and the required findings of approval specified in Chapter 19, Zoning, of the Novato Municipal Code. In all instances, the project and its associated entitlement actions were found to meet the applicable policies, standards, and findings. Therefore, staff is recommending the Planning Commission recommend approval of the Mitigated Negative Declaration and the requested entitlements for the project.

**BACKGROUND**

Property Owner:	Dairymen’s Milling Company
Applicant:	Tharaldson Hospitality Development
Assessor's Parcel No.	143-011-06
Property Size:	3.05 acres
General Plan Designation:	Commercial/Industrial (CI); 1.0 Floor Area Ratio (FAR)
Current Zoning:	Commercial/Industrial (CI)
Proposed Zoning:	Planned District (PD)
Existing Use:	Feed Store
Adjacent Uses:	North: Commercial and Industrial uses South: Vacant and Commercial uses East: Railroad Tracks, Bus Yard West: Residential

## SITE CHARACTERISTICS & PROJECT DESCRIPTION

### ***Project Site***

The 3.05-acre site is currently developed with improvements associated with the Dairymen's Milling Company facility. A feed store currently operates at the site. The property generally slopes from west to east. Elevations at the site range from approximately 13 feet at the western property line down to 7 feet near the railroad tracks. Eight trees are located on the site near the southern and western property lines.

**Figure 1.** Site Vicinity (property line is approximate)



**Surrounding Land Uses and Improvements**

The project site is located in the North Redwood Blvd. corridor, an area with a mix of commercial, industrial, and residential uses. Vacant commercial land is located immediately south of the site, with a grocery store located further south. A mix of vacant and industrial uses is located north of the site. Railroad tracks and a bus yard are located east of the site, and existing and approved, but not yet developed, residential uses are located west of the site. The site is bound by Redwood Blvd. to the west and Golden Gate Place to the north.

**Project Description**

The applicant has proposed to develop the 3.05-acre site with a 103-room hotel and separate commercial building. The proposed 77,532-square-foot hotel is three to four stories tall with a maximum height of 53 feet. The proposed one-story commercial building is 8,000 square feet. One-hundred-sixty parking spaces are proposed, including 119 off-street spaces and 41 new on-street spaces. The proposed Redwood Blvd. access is a shared access with the property to the south of the site currently owned by Retail Opportunity Investments Corp. (ROIC). Due to the uncertainty regarding the applicant’s ability to obtain a shared access agreement with ROIC, the applicant has also submitted an alternative site plan that shifts the Redwood Blvd. access north, entirely on the Dairymen’s site. The alternative site plan includes a reduced 6,500-square-foot commercial building, a reduction in the total number of proposed parking spaces, and a reduction of approximately five trees within the vehicle parking areas. Table 1, below, includes a summary of the preferred and alternative site plans. The project includes the following public improvements:

Redwood Blvd. frontage:

- 17 parking spaces (45 degree diagonal); 16 with alternative site plan
- 7 street trees with a configuration similar to Grant Ave; 6 with alternative site plan
- 8-foot-wide sidewalk;
- 6-foot-wide cycle track (Class IV separated bikeway)

Golden Gate Place frontage:

- 24 parking spaces (90 degree perpendicular)
- 3 street trees in landscaping fingers
- 6.5-foot-wide sidewalk

**Table 1. Project Summary Table.**

Project Component	Preferred Site Plan	Alternate Site Plan
Hotel	77,532 square feet	77,532 square feet
Commercial Building	8,000 square feet	6,500 square feet
<b>Total Building Area</b>	<b>85,532 square feet</b>	<b>84,032 square feet</b>
On-Site Parking	119	106
On-Street Parking	41	40
<b>Total Parking</b>	<b>160</b>	<b>146</b>



Eight existing trees on-site would be removed with the proposed project, located near the southern and southwestern property lines. Approximately 100 trees will be planted as part of the landscape plan. Additionally, shrubs, groundcover, succulents, vines, perennials, and grasses will be planted, as shown on the landscaping plan include with the plan set ([www.novato.org/residenceinn](http://www.novato.org/residenceinn)).

The North Marin Water District (NMWD) provides potable domestic water and recycled water for landscape irrigation in this area of Novato. The project is designed for both potable domestic and recycled water to comply with the NMWD requirements. The Novato Sanitary District (NSD) provides sewage disposal for the project. At the request of the NSD, the applicant's engineer has prepared a Preliminary Sewer Capacity Study. The Study concluded that the existing sanitary sewer mains have adequate capacity to handle the peak use of the proposed development, future development, and existing usage.

The Project plans are available to review and download on the project webpage for Planning Commission review. In addition, the staff reports submitted to the Design Review Commission (DRC) on September 6, 2017, and December 20, 2017 are available for download on the project webpage at [www.novato.org/residenceinn](http://www.novato.org/residenceinn). These staff reports include additional information describing the design details of the Project.

The following development entitlements have been requested for the Project:

Rezone/Master Plan/Precise Development Plan/Design Review: As noted above, the proposed project site is zoned Commercial/Industrial (CI). The applicant has requested that the site be rezoned to Planned District (PD). Novato Municipal Code Division 19.56 details the provisions for amending the Zoning Map. Pursuant to Novato Municipal Code Sections 19.14.030.B and 19.42.060, development of the 3.05-acre project site under the Planned District zoning designation requires a Master Plan (MP) and Precise Development Plan (PDP). Novato Municipal Code Section 19.42.060 allows for a combined MP and PDP; design review is a component of the PDP. The MP/PDP will establish the allowed land use type(s) (consistent with the General Plan Land Use designation), development intensity, and site planning and development standards, such as setback requirements, height limits, and landscaping standards.

Vacation of a Relinquishment of Abutter's Rights: Abutter's right to access Redwood Blvd. from the project site were relinquished to the State in the 1940s and 1950s. Once the Hwy 101 freeway was constructed, the State deeded Redwood Blvd. to the City of Novato. In order to provide access to the project site along Redwood Blvd., a Vacation of the relinquishment of abutter's rights needs to be approved by the City Council and recorded. The Planning Commission is tasked with making a finding(s) regarding the partial vacation of the relinquishment of abutter's rights in terms of conformity to the adopted general plan, and report that finding to the City Council. The City Council will need to approve a vacation of the relinquishment of abutter's rights, in accordance with the California Streets and Highways Code.

Should the Project be approved by the City Council it would return to the DRC for a final design review. The final design review would address finish materials, colors, plant selection, and other fine-grain architectural details. Additionally, the applicant has expressed an interest in an on-site art project, with would also be considered by the DRC.

## **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, public comments, and any other evidence provided at or prior to the public hearings for the proposed project, prior to making a recommendation to the City Council. The Planning Commission's review and recommendation will be based on the findings required to adopt a CEQA Mitigated Negative Declaration and approve a rezone/master plan/precise development plan/design review resolution, and a resolution regarding general plan consistency for the vacation of a relinquishment of abutter's rights.

## **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 entitlement actions discussed above 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. However, feasible mitigation measures are available to avoid or reduce these impacts to a less than significant level. Therefore, a Mitigated Negative Declaration is recommended to be adopted for the Project. A full discussion of each impact is provided in the Residence Inn Draft Initial Study/Mitigated Negative Declaration, which is available at [www.novato.org/residenceinn](http://www.novato.org/residenceinn). Draft Mitigation Measures are summarized in the Draft Mitigation Monitoring and Reporting Program provided as Exhibit A to the resolution (Attachment 1) recommending approval of the Mitigated Negative Declaration.

## **NEIGHBORHOOD MEETING**

A neighborhood meeting was held on July 12, 2017, to present the Project to interested residents/community members. The meeting notice was mailed to all property owners of record within a 1,000 foot radius and the entire Atherton Ranch neighborhood.

## **DESIGN REVIEW RECOMMENDATION**

The Project was presented to the Design Review Commission (DRC) at a public workshop and then subsequently at a DRC public hearing for a formal recommendation to the Planning Commission and City Council. The purpose of the DRC's early review is to inform the Planning Commission and City Council's consideration of whether a given project's proposed site design, massing, and architectural design are functionally and aesthetically suitable for the site and its surrounding context.

The Project was presented to the DRC at a public design review workshop on September 6, 2017. The DRC was generally supportive of the Project's overall design, but requested several modifications to the Project's site design and architecture. Following design revisions made at the applicant's discretion based on feedback provided by DRC at the workshops, the Project was returned to the DRC at a public hearing on December 20, 2017. For more background, a copy of the DRC staff report is available for review and download at [www.novato.org/residenceinn](http://www.novato.org/residenceinn).

The DRC adopted a motion recommending the Planning Commission and City Council approve the revised landscaping plan, street design, architecture, and building massing. The recommendation included conditions that the project be brought back to the DRC for final detail

approval prior to issuance of a building permit. The DRC's recommendation was based on the required findings for Design Review, and applicable design related policies of the Novato General Plan.

## **STAFF ANALYSIS**

The following is an analysis of the projects consistency with the Novato General Plan and Novato Municipal Code, including Chapter 19, *Zoning*, as related to the required entitlements.

### **General Plan Consistency**

Applicable General Plan Policies include:

#### **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.

*Discussion/Analysis: The General Plan land use designation at the site is Commercial/Industrial. The project includes a rezone from Commercial/Industrial (CI) to Planned District (PD). The Commercial/Industrial Land Use Designation allows a maximum Floor Area Ratio (FAR) of 1.0. The project site is approximately 133,003 square feet, and the proposed project includes 85,532 square feet of floor area, equal to an FAR of 0.643. An analysis of applicable General Plan, Zoning Ordinance, and other land use regulations is included in this staff report. The project is therefore consistent with LU Policy 1.*

**LU Policy 2 Development Consistent with General Plan.** Allow development at any density range within the range shown by the Land Use Designation 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.

*Discussion/Analysis: The Commercial/Industrial Land Use Designation does not prescribe density ranges, but uses maximum Floor Area Ratio (FAR) to limit building intensity. The CI designation has a maximum FAR of 1.0; the proposed project has an FAR of 0.643. The project is therefore consistent with LU Policy 2.*

#### **Transportation Chapter**

**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.

*Discussion/Analysis: The traffic study prepared for the CEQA document concludes that acceptable LOS will be maintained subsequent to the development of this project. The project is therefore consistent with TR Program 4.1.*

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

*Discussion/Analysis: Public improvements on Redwood Blvd. and Golden Gate Plan include on-street parking, sidewalks, and a cycle track are conditioned to be provided by the project applicant. Additionally, an enhanced pedestrian crosswalk across Redwood Blvd. at Golden Gate Place will enhance pedestrian safety. The project as conditioned is consistent with TR Policy 11.*

**TR Policy 21** Bicycle Parking. Promote and provide adequate bicycle parking at public transit facilities, park-and-ride lots, schools, the library, parks, city office, and commercial areas, as feasible.

*Discussion/Analysis: The project includes bicycle parking facilities consistent with the minimum requirements of the Novato Municipal Code. The project is therefore consistent with TR Policy 21.*

**TR Policy 22** Pedestrian Facilities. Promote, provide, and maintain a safe and convenient pedestrian system.

*Discussion/Analysis: A new 8-foot wide sidewalk is proposed along the Redwood Blvd. frontage and a 6.5-foot sidewalk is proposed along the Golden Gate Place frontage. The project is therefore consistent with TR Policy 22.*

#### Environment Chapter

**EN Policy 26** Trees in New Development. Require that 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.

*Discussion/Analysis: The trees proposed for removal are located near the southwest corner of the property. The proposed Redwood Blvd. access is situated in this portion of the project site. An access point onto Redwood Blvd. is necessary for adequate vehicular movement and emergency vehicle access. Access at the southernmost portion of the site is ideal because of the potential for a future shared access with the lot to the south and for adequate distance from the Redwood Blvd./Golden Gate Place intersection. The proposed landscape plan includes approximately 100 trees that will be planted should the project be approved and constructed. The project is therefore consistent with EN Policy 26.*

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

*Discussion/Analysis: The applicant has provided a trash enclosure area that is of adequate size to accommodate solid waste and recycling bins. The project is therefore consistent with EN Policy 39.*

#### Safety and Noise Chapter

**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.



*Discussion/Analysis: The Novato Fire District has reviewed the proposed project, and included a number of Conditions of Approval to ensure compliance with fire safety standards. The project is therefore 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. The normally acceptable standards for outdoor noise are summarized below [noise measurements in Ldn]:

Residential Development	up to 60 dB
Transient Lodging: Motel and Hotel	up to 60 dB
Office Building, Business, Commercial & Professional	up to 70 dB
Industrial, Manufacturing, Utilities	up to 70 dB

*Discussion/Analysis: Noise was analyzed in the Draft IS/MND. The noise analysis concluded that anticipated noise levels would be below the thresholds in SF Table 3. Therefore, the project is consistent with SF Policy 37.*

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

*Discussion/Analysis: Since the noise analysis completed in the IS/MND concluded that impacts would be less than significant, noise reduction and mitigation is not necessary for this project. The project is therefore consistent with SF Policy 38.*

#### Economic Development & Fiscal Vitality Chapter

**EC Policy 7 Employment Opportunities.** Encourage an increase in the number and types of jobs that would enable people to live and work in Novato, consistent with the goals and policies of the General Plan.

*Discussion/Analysis: The project includes a 103-room hotel and 8,000-square-foot commercial building. Both the hotel and future commercial tenants will increase employment opportunities in the City of Novato. The project is therefore consistent with EC Policy 7.*

**EC Policy 16 Tourism.** Encourage the development of tourism in Novato.

*Discussion/Analysis: The proposed hotel will provide additional lodging opportunities for persons visiting Novato and the surrounding areas. There is the potential for increased tourism within the City of Novato once the hotel is constructed. The project is therefore consistent with EC Policy 16.*

**EC Policy 25 Fiscal Impact Assessment.** Evaluate the fiscal impacts of new development proposals on the City's fiscal situation, paying particular attention to the day-to-day ongoing costs of City operations.

*Discussion/Analysis: The City retained a firm to complete a fiscal impact study of the proposed development. The study concluded that the project will provide a net increase in taxes to the City, resulting in an improved fiscal situation. The study estimates a net General Fund revenue increase of approximately \$425,000 per year, including over \$400,000 per year in transient occupancy tax (TOT). The project is therefore consistent with EC Policy 25.*

## Community Identity Chapter

**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.

*Discussion/Analysis: A vacant commercially zoned lot is located to the south of the project site, with a grocery store located further south. An old cement batch plant is located north of the site across Golden Gate Place, the SMART railroad tracks and Golden Gate Transit bus facility are located to the east, and residentially-zoned land is located west of the site across Redwood Blvd. There is not a defined architectural style on this portion of the Redwood Blvd. corridor. Landscaping is minimal on the developed lots, there is a lack of ambiance, and the lack of buildings eliminates any notion of neighborhood scale. Redwood Blvd. is within a 188-foot wide right-of-way, which lends itself to increased mass, bulk, and height without becoming overbearing on the public realm. The existing Dairymen's building is approximately 69 feet tall.*

*The applicant has proposed a mix of colors and materials, along with articulation of the building to create interest and variety. The applicant has chosen materials and finishes that are representative of Marin and Sonoma counties in an attempt to tie the proposed structure to the local/regional historical and design context. The project is therefore consistent with CI Policy 1.*

**CI Policy 3 Variety in Design.** Discourage sameness and repetitive designs.

*Discussion/Analysis: The proposed building is sided with four different primary materials and five textures, along with four different trim materials/colors. Shed roof overhangs and awnings, metal horizontal lattice-type trim, and glass is used as design accents. The project is therefore consistent with CI Policy 3.*

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

*Discussion/Analysis: The applicant has proposed a significant tree canopy at the project site. Street trees and on-site trees line both Redwood Blvd. and Golden Gate Place, and an orchard-style parking lot landscaping is proposed. Along the railroad tracks, two alternating rows of trees are proposed to soften the transition from the rail road tracks, bus facility, freeway, and project site. The project is therefore consistent with CI Policy 7.*

**CI Policy 9 Underground Utilities.** Continue to require undergrounding of utilities.

*Discussion/Analysis: A condition of approval will require that above-ground utilities be placed underground, where feasible. The project is therefore 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

*Discussion/Analysis: The on-site parking will be largely screens by the proposed buildings. The parking lot is setback over 100 feet from Redwood Blvd., which also reduces the prominence of the required on-site parking. The project is therefore consistent with CI Policy 12.*

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

*Discussion/Analysis: Over 45 percent of the project site is proposed to be landscaped. The landscaping is distributed throughout the project site. Therefore, the project is consistent with CI Policy 14.*

**CI Policy 15 Pedestrian Path.** Provide for maximum feasible pedestrian circulation.

*Discussion/Analysis: A wide sidewalk and cycle track are proposed along the Redwood Blvd. frontage. Additionally, there are a number of pedestrian walkways throughout the project site. Therefore, the project is consistent with CI Policy 15.*

**CI Policy 32 Public Art.** Promote public art that enhances the cultural life of the community.

*Discussion/Analysis: An art piece is proposed along the Redwood Blvd. frontage. The applicant is requesting that the DRC reserve approval of the required art piece to a later date. Planning staff is recommending a condition of approval that would require the art piece to be reviewed and approved by the DRC subsequent to City Council approval of the project. Therefore, the project is consistent with CI Policy 32.*

*Allowable Density Range:*

The project site is designated Commercial Industrial (CI) on the General Plan Land Use Map. The CI designation permits a floor area ratio (FAR) of 1.0. The subject parcel is 3.05 acres, or 133,003 square feet. Therefore, the entire site can accommodate up to 133,003 square feet of building floor area. The combined hotel and commercial building total 85,532 square feet or 0.643 FAR, which is below the allowable FAR of 1.0.

## **Novato Zoning Code**

### ***Rezone Request to Planned District (PD)***

The applicant is requesting that the City rezone the site from Commercial/Industrial (CI) to a Planned District (PD) classification. The PD District is a special purpose zoning district that is intended to promote and encourage innovation and flexibility in the design of proposed development and greater sensitivity to the characteristics of the site and surrounding properties. For development of a PD, a master plan is required to establish the project specific permitted land uses(s) and development intensity within the limits established by the General Plan land use designation applicable to the site. In this instance, the development intensity must be consistent with the Commercial/Industrial (CI) General Plan land use designation, which allows an intensity of up to 1.0 FAR. Allowable land uses in the CI designation includes a wide range of commercial and industrial uses including employee serving retail/service uses, such as a hotels, restaurants, and other service and commercial/retail uses.

Adoption of a Precise Development Plan (PDP) is required to establish setbacks, height limits, parking requirements, landscaping requirements, and other site planning, development standards, and special provisions and requirements. Design Review is a component of the PDP review and approval process. Novato Municipal Code Section 19.42.060.C.3 allows for a single plan, serving as both Master Plan and Precise Development Plan. The combined plan must be approved by ordinance and constitutes a rezoning and zoning text amendment.

## **Zoning Map Amendment (Rezone)**

Novato Municipal Code Division 19.56 establishes the provision for zoning map amendments. The Planning Commission is tasked with making a written recommendation to the City Council based upon the findings contained in NMC Section 19.56.070.C (Findings for Zoning Map/Ordinance Amendments), which are detailed below.

1. Findings required for all Zoning Map/Ordinance Amendments.

- a. The proposed amendment is consistent with the General Plan;

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, as set forth above, the proposed amendment is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site.*

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

*Based on the analysis provided herein, and the analysis of the Draft IS/MND, no detrimental impacts to the public interest, health, safety, convenience, or welfare of the City were identified. The project has been reviewed by the Novato Fire Protection District, the City Engineer, and other agencies that will provide service to the project site. Those agencies have provided the City with comments and recommended conditions of approval regarding the project design and their ability to serve the project. Agency recommended conditions of approval have been included with the entitlements to ensure that the project will not be detrimental to public interest, health, safety, convenience, or welfare of the City.*

- c. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines.

*A CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project in compliance with CEQA and the Novato Environmental Review Guidelines. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including future occupants of the Project, nearby residents, building occupants, and workers, and the City's residents at large. These topics include: aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, population/housing, recreation, tribal cultural resources, transportation/traffic, and utilities/services. In no instance did the MND/IS identify any significant impacts associated with map amendment or the Project that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The mitigation measures presented in the IS/MND will be applied to the Project as conditions of approval. Based on these findings and the findings contained in the resolution approving the MND it can be found that the proposed project has been reviewed in compliance with the CEQA Guidelines.*

2. Additional finding for zoning map amendments. The site is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provisions of utilities) for the requested zoning designations and anticipated land uses/developments.

*The Project Site is nearly flat, clear of physical constraints and is located in an area predominantly characterized by commercial and industrial uses on the east side of Redwood Blvd. There are existing and proposed residential uses on the west side of Redwood Blvd., but due to the width and configuration of Redwood Blvd., there is adequate buffer between the Project Site and those residential uses.*

*The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site prescribed in the General Plan. Based these findings and the findings contained in the resolution approving the zoning map amendment, the project is physically suitable for the requested zoning designation and anticipated development.*

3. Additional Finding for Zoning Ordinance Amendments. The proposed amendment is internal consistent with other applicable provisions of this Zoning Ordinance.

*Not applicable. A zoning ordinance amendment is not associated with this project.*

### **Combined Master Plan/Precise Development Plan**

The text of the Master Plan and Precise Development Plan are attached as exhibits to the resolution approving the zoning map amendment, master plan, and precise development plan. The text includes limitations on land uses and building intensity, and development standards specific to the project site. The project site plan and landscape plan (plan set) are the map exhibit for the Master Plan and Precise Development Plan.

### **Master Plan Component**

The findings of Section 19.042.060.E.3 of the Novato Municipal Code must be made to approve the proposed Master Plan. These findings are listed below; following each finding is a statement regarding the project's conformance with each finding for the Planning Commission's consideration. The staff analysis and statements included in this staff report are the basis for the draft resolutions attached for the Planning Commission's consideration.

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

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, as set forth above, the proposed master plan is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site.*

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

*The project site is located in the central area of Novato. The applicant, at the request of the Novato Sanitary District, completed a Sewer Capacity Study that concluded that there is adequate downstream sewer capacity to accommodate the proposed development. Additionally, the North Marin Water District, Novato Fire Protection District, and City departments have reviewed the project and provide conditions of approval, as necessary, to*



*ensure that the project is developed in a manner consistent with their development standards. Recycled water will be used on-site for landscaping, as required by the North Marin Water District. Therefore, the proposed master plan development can be found to be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.*

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

*3. and 4. The Project Site is nearly flat, clear of physical constraints and is located in an area predominantly characterized by commercial and industrial uses on the east side of Redwood Blvd. There are existing and proposed residential uses on the west side of Redwood Blvd., but due to the width and configuration of Redwood Blvd., there is adequate buffer between the Project Site and those residential uses.*

*The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site.*

*The proposed Master Plan land uses and project density/intensity is suitable to the project site and is compatible with the site vicinity. The permitted and conditionally permitted uses described in the Master Plan text land use table are consistent with the existing, proposed, and future land uses described in the zoning code, general plan, and draft General Plan 2035 document. Additionally, the North Redwood Blvd Corridor Study was utilized to determine suitable land uses to ensure that incompatible uses that are not consistent with the corridor vision are prohibited at the site. The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site. Access to the site from Redwood Blvd. and Golden Gate Place is adequately sized to accommodate visitors to the site and emergency vehicles. A traffic impact analysis was completed for the CEQA IS/MND, and no significant impacts were identified; recommended safety and connectivity improvements identified in the traffic impact analysis are included as recommended conditions of approval for the project. Therefore, the project is reasonably suited to the specific characteristics of the site and the surrounding neighborhood, and is compatible with existing and future land uses in the surrounding neighborhood.*

The proposed Master Plan and the subsequent construction of the project have been reviewed against the findings above. In all instances, the proposed Master Plan and the project itself were found to meet the noted findings. The specific facts to support this position are provided in the Staff Analysis section of this staff report.

### **Precise Development Plan Component**

A precise development plan allows a project to be designed with flexibility, but in a manner reflecting sensitivities of the site and surrounding properties. That is, 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 found to comply with most of the traditional development standards of the Novato Zoning Ordinance that would normally apply to a commercial development. Exceptions include the use of on-street parking to compensate for a reduced off-street parking count and increase height above the maximum allowed in the CI zoning district.

### **Vehicle Parking**

Novato Municipal Code (NMC) Section 19.30.040, Table 3-7, summarizes the parking requirements for different land uses. The code requires one parking spaces for each hotel guest room, plus required spaces for accessory uses. The proposed 103-room hotel would require 103 vehicle parking spaces. For the commercial pad building, including the proposed outdoor dining, the code requires that one space per 250 square feet of building area plus one space per 50 square feet of outdoor dining/seating area is required. The proposed 8,000-square-foot building (including outdoor dining/seating area) would require 56 spaces, and the alternative 6,500-square-foot building would require 50 parking spaces.

**Table 2. Parking Ratio Requirements\***

Use	Spaces Required	Proposed (8,000-square-foot)	Proposed (6,500-square-foot alt.)
Hotel (103 rooms)	One space per guest room	103	103
Commercial Building (including outdoor dining/seating area)	One space per 250 square feet of building plus one space per 50 square feet of outdoor seating area	56	50
Total req. by code		159	153
Total proposed		160	146
Difference		+1	-7

\* See NMC Section 19.30.040, Table 3-7. Parking ratios are based on the land use types of *hotels and motels*; *restaurants – outdoor seating area*; and *shopping centers*.

The total number of proposed parking spaces listed in Table 2, above, includes both off-street and on-street parking spaces. Currently, Redwood Blvd and Golden Gate Place have improved vehicle travel lanes and unimproved shoulders, lacking formal parking stalls and curb/gutter/sidewalks. The proposed development would include new sidewalks, 40 or 41 diagonal on-street parking, and a bicycle cycle-track along Redwood Blvd. in the public right-of-way.

Planning staff has reviewed the proposal and is supportive of the use of on-street parking to count towards the parking space requirement for both the preferred site plan and the alternative site plan for the following reasons:

- Hotel guests would likely be patrons of restaurant(s) that are likely to occupy the commercial building, especially in the evening;
- During the restaurant lunch-time peak use, many hotel guests would be off-site with their vehicles, freeing up hotel parking spaces for other site visitors;
- The site is located approximately ½-mile from the SMART San Marin Station; a pedestrian and bicycle path connects the SMART station to Rush Creek Place.
- The site is located approximately 600 feet from the Redwood Blvd./Olive Ave. bust stop, which serves seven bus routes.
- There is existing, and approved, but not yet built residential uses within walking distance of the site;
- The proposed 8-foot wide sidewalk on Redwood Blvd., cycle-track, and temporary path that connects to the sidewalk south of the site will all improve pedestrian and bicycle connectivity;
- When the vacant ROIC-owned properties, located south of the site are developed, there will be additional potential visitors to the site within walking distance;
- The use of the proposed on-street parking to count towards required parking is justified due to the lack of other commercial uses in proximity to the site. Redwood Blvd. essentially functions as a single-loaded commercial street due to the width and configuration. It is unlikely that existing and proposed uses on the west side of Redwood Blvd. would utilize the proposed parking due to the width of Redwood Blvd. and availability of parking on the west side of Redwood. There is adequate on-street parking for those uses on the east side of Redwood north of the project site. When the undeveloped area south of the project site develops, additional on-street parking will be developed.

### **Building Height**

The Commercial/Industrial zoning district has a maximum height limit of 35 feet (NMC Section 19.12.040, Table 2-8). Novato Municipal Code Section 19.20.070.C.2 allows maximum height to be increased by 20 percent through design review approval, to a maximum height of 42 feet. As noted above, additional height may be approved through the Planned District rezone process.

Portions of the proposed hotel are 3 stories and 4 stories. The 3-story portion of the hotel has a maximum height of approximately 39 feet, and the 4-story portion of the hotel has a maximum height of approximately 53 feet. The 3-story portion of the hotel is located closest to Redwood Blvd., and steps up to 4 stories towards the east side of the lot. The existing Dairyman's structure at the site is approximately 69 feet tall; the 53-foot tall hotel represents a 16-foot height reduction. The CEQA IS/MND reviewed the aesthetics of the proposed hotel, and no potentially significant impacts were identified. The proposed hotel would not block views of Mount Burdell or Big Rock Ridge, and the replacement of the existing Dairyman's building with the hotel would expose more of the ridgeline to public viewpoints on US101. The Design Review Commission (DRC) reviewed the hotel at a DRC workshop on September 6, 2017, and DRC hearing on December 20, 2017. At the request of the DRC, the applicant reduced the height of the 3-story portion of the building, resulting in the 39-foot height. At the December 20, 2017, meeting, the DRC recommended that the Planning Commission and City Council approve the proposed hotel as presented.

Based on City staff's review of parking and the Design Review Commission's recommendation regarding the design aspects of the project, the proposed parking and building height are considered to be consistent with the purpose of the Planned District zoning designation and the purpose of the master plan and precise development plan in that the proposed project is sensitive to the characteristics of the site and surrounding properties, efficiently utilizes the project site, and is consistent with the design guidelines of the North Redwood Boulevard Corridor Study.

The findings of Novato Municipal Code Section 19.042.060.F.3 must be made to approve the proposed precise development plan for the Project. These findings are listed below for Planning Commission reference along with the staff analysis of the project, as applied to the required findings.

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

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, above, the proposed precise development plan is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site. The PDP is being developed in concert with the Master Plan for the site. The PDP is consistent with the proposed 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.

*The project has been designed to conform to the recommended design-related guidelines of the North Redwood Blvd Corridor Study (NRBC), dated January 2014. Design components consistent with the NRBC include 1) public gathering places and ample outdoor seating; 2) extensive landscaping with shade trees; 3) pedestrian and bicycle facilities, including wide pedestrian sidewalks and a bicycle path along the Redwood Blvd frontage; 4) the detached commercial building is located along the Redwood Blvd frontage; 5) the parking lot is largely hidden from the Redwood Blvd corridor due to building placement and other amenities; and 6) the buildings will incorporate four-sided architecture through the design review process. The extensive orchard-style off-street parking lot includes additional landscape fingers with trees in excess of the code requirement. Additionally, the public gathering places and outdoor seating areas is another factor that has resulted in a reduced number of off-street parking stalls. To compensate, the applicant, with input from City Planning and Engineering staff, has proposed public right-of-way improvements intended to reduce vehicular speeds, increase the tree canopy along Redwood Blvd, and provide a more pleasant pedestrian experience along the frontage of the site.*

- 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.

*The proposed project was referred to the Novato Police Department, Novato Fire Protection District, and public utilities. Those agencies have provided recommended conditions of approval, where appropriate, to ensure that emergency vehicle access and utilities services are provided. Additionally, staff has reviewed the project for consistency with the Novato Municipal Code and completed CEQA environmental review. Recommended mitigation measures and/or conditions of approval will ensure that the project will not 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 project 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.

*d. and e. The proposed Master Plan land uses and project density/intensity is suitable to the project site and is compatible with the site vicinity. The Commercial/Industrial General Plan Land Use designation allows a 1.0 Floor Area Ratio (FAR). The proposed Master Plan includes a maximum FAR of 0.65, and the proposed development has an FAR of 0.643. The permitted and conditionally permitted uses described in the Master Plan text land use table are consistent with the existing, proposed, and future land uses described in the zoning code, General Plan, and draft General Plan 2035 document. Additionally, the North Redwood Blvd Corridor Study was utilized to determine suitable land uses to ensure that incompatible uses that are not consistent with the vision of the corridor are prohibited at the site. The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. Access to the site from Redwood Blvd. and Golden Gate Place is adequately sized to accommodate visitors to the site and emergency vehicles. A traffic impact analysis was completed for the CEQA IS/MND, and not significant impacts were identified; recommended safety and connectivity improvements identified in the traffic impact analysis are included as recommended conditions of approval for the project. The CEQA IS/MND also analyzed potential impacts to aesthetics, air quality, noise, public services, and utilities. In all instances, where potential impacts were identified, feasible mitigation measures were identified to reduce said impacts to a less than significant level.*

*The 3.05-acre project site is adequate in size to accommodate the proposed buildings, parking, landscaping, and other features. A four-foot high black cyclone fence is proposed along the east property line to provide separation between the project site and the railroad tracks. A loading space is provided adjacent to the trash enclosure along the eastern property line also.*



*The project was presented to the Novato Design Review Commission on September 6, 2017, and December 20, 2017. The purpose of these meetings was to review the Project's site design, massing, and architectural 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 (DRC) adopted a motion recommending the Planning Commission and City Council approve the site design, massing, and architectural concepts for the Project. The DRC recognized the Project for its well resolved site plan, appropriate mass/scale, and architecture. The DRC's recommendation was based on the required findings for Design Review and applicable design related policies of the Novato General Plan.*

The Project has been reviewed to determine whether the proposed precise development plan and the subsequent construction and operation of the Project would be consistent with the findings above. In all instances, the proposed precise development plan, as represented by the Project plans, was found to meet the noted findings.

### ***Design Review***

In accordance with Novato Municipal Code Section 19.42.030.F, the Design Review Commission recommended that the Planning Commission and City Council make the following findings regarding the proposed design aspects of the project:

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. 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. 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 Project has been reviewed to determine whether its design would be consistent with each of the findings above. In all instances, the Design Review Commission determined that the design, as represented by the project plans and as detailed in the December 20, 2017, Design Review Commission staff report, meets the noted design review findings.

### ***Vacation of a Relinquishment of Abutter's Rights***

A relinquishment of abutter's rights exists along the Redwood Blvd. frontage, which essentially prohibits access from the site onto Redwood Blvd. The applicant is requesting that the City Council approve a Vacation of the Relinquishment of Abutter's Rights to allow for the proposed driveway access from the site onto Redwood Blvd.

Prior to City Council action on the requested vacation, Government Code Section 65402 requires that the Planning Commission review the proposed vacation for consistency with the Novato

General Plan. There are no specific findings that the Planning Commission must make to vacate a relinquishment of abutter's rights, other than confirming consistency with the General Plan. In this instance, vacating the relinquishment of abutter's rights is considered to be consistent with the General Plan for the following reasons:

1. The project site is designated Commercial/Industrial (CI) on the General Plan Land Use Map (Map LU 1) and access to Redwood Blvd. is necessary for adequate circulation and emergency vehicle access to the site; and
2. There are no General Plan policies directly or indirectly prohibiting access from an arterial street to a site designated for commercial uses; and
3. The City of Novato Public Works Engineering Division did not identify any safety hazards, undesirable elements, or improvement deficiencies that would prevent the placement of an access way(s) from Redwood Blvd. onto the project site; and
4. The City of Novato Public Works Engineering Division has the ability to control access onto Redwood Blvd through the encroachment permit application and approval process.

The City Council would need to approve the requested vacation pursuant to the criteria of California Streets and Highways Code Section 8300 *et seq.* The City Council will need to find that the relinquishment of abutter's rights is not necessary for present or prospective use. If the City Council approves the requested vacation, thereafter, the City Clerk would record a copy of the signed resolution of vacation with the Marin County Recorder. Once the resolution of recorded, the vacation process is complete.

Public Notice for this Planning Commission Hearing:

Public notices of the Planning Commission's September 17, 2018, public hearing for the project and its associated development entitlements were sent to all property owners within 1,000 feet of the boundaries of the project site, the entire Atherton Ranch neighborhood, all public agencies potentially serving the project or having some oversight of the project's construction, all responsible, trustee agencies, all persons requesting notice pursuant to Novato Municipal Code Section 19.58.020, posted on the Project web page on the City's website, and published in the Marin Independent Journal, a newspaper of local circulation, on September 7, 2018. All public comments received by September 10, 2018, are included in Attachment 4.

**Response to Public Comments**

SMART comments: SMART submitted comments stating that storm water discharge onto SMART's right-of-way will not be permissible.

*Response: The applicant's engineer reviewed SMART's comments and replied that there is no proposed runoff onto SMART's property.*

Marin County Flood Control District comments: The District stated that if plans include direct or indirect storm water drainage flow to Rush Creek, the District will require review of the drainage plan.

*Response: The applicant's engineer reviewed the District's comments and replied that there is no proposed storm water drainage that directly or indirectly flow to Rush Creek.*

Thomas Law Group (on behalf of ROIC California, LLC) comments: Thomas states that the proposed project impermissibly relies on the use of ROIC property and that the MND traffic analysis is inadequate.

*Response: The Project includes two site plans, one that relies on a Redwood Blvd, shared access with the ROIC property, and a second that has Redwood Blvd. access wholly on the Dairymen's/Residence Inn site. Should the applicant and ROIC not come to an agreement regarding shared access, the alternative site plan would be implemented. The project can be built without a shared access. Recommended Condition of Approval No. 12 allows for the alternative site plan to be implemented.*

*The ROIC property (APN 143-011-05) immediately south of the project site does not currently have a City-approved use at the site. In the past, the City has approved seasonal and temporary uses on the ROIC property, but none of those approvals are currently active. On November 9, 2017, the City approved a permit (P2017-105) for a temporary Christmas tree lot. On August 1, 2017, the City approved a temporary use permit (P2017-053) for a PG&E construction laydown yard, valid until October 31, 2017. On November 21, 2016, the City approved a temporary Christmas tree lot permit (P2016-093). Additionally, on November 18, 2015, the City approved a temporary Christmas tree lot permit (P2015-087). Lastly, the City approved a temporary use permit on April 23, 2015, for a temporary parking lot. The temporary use permit expired on April 23, 2017; the property owner failed to request an extension of the temporary use permit prior to its expiration date.*

*The City is not aware of any reasonably foreseeable development of the ROIC site. ROIC has not submitted any entitlement applications for the site to the City and the City is not aware of any specific development plans. The Residence Inn site plan does show a hypothetical development on the ROIC site for site planning purposes to demonstrate how a shared access onto Redwood Blvd. may align with a future unknown development of the ROIC site. This conceptual site plan does not constitute a reasonably feasible development.*

*The City's traffic engineer consultant, W-Trans, collected traffic count data at the Redwood Blvd./Ranch Drive intersection on March 27, 2018, and other nearby intersections in November 2016 as part of the traffic analysis currently underway for the City of Novato General Plan 2035 EIR. Baseline traffic conditions were identified with those traffic counts. El Novato Court, the ROIC access that Thomas Law Group is presumably referencing, is not a public or private street, but is considered an individual driveway. The City's General Plan does not require a Level of Service (LOS) of every driveway, only intersections.*

*CEQA only requires that potential impacts be documented. There is no requirement in CEQA statutes or guidelines that would require documentation of every driveway where no potential impact exists. If no potential impact to safety is observed, no disclosure is necessary. Additionally, parking is not an environmental factor that requires analysis by CEQA.*

### **COMMISSION ALTERNATIVES**

1. Adopt resolutions recommending the City Council adopt a Mitigated Negative Declaration and approve the requested rezone/master plan/precise development plan/design review, and find and report that the vacation of a relinquishment of abutter's rights is consistent with the General Plan for the Project by adoption of the attached resolutions; or

2. Modify any of the proposed resolutions and recommend adoption of a Mitigated Negative Declaration and approve the requested rezone/master plan/precise development plan/design review, and find and report that the vacation of a relinquishment of abutter's rights is consistent with the General Plan for the Project by adoption of the attached resolutions; or
3. Recommend the City Council not adopt a Mitigated Negative Declaration and approve the requested rezone/master plan/precise development plan/design review, and find and report that the vacation of a relinquishment of abutter's rights is consistent with the General Plan for the Project by adoption of the attached resolutions; or
4. Continue the public hearing with direction to staff.

### **RECOMMENDATION**

Adopt resolutions recommending the City Council adopt a Mitigated Negative Declaration and approve the requested rezone/master plan/precise development plan/design review, and find and report that the vacation of a relinquishment of abutter's rights is consistent with the General Plan for the Project by adoption of the attached resolutions.

### **FURTHER ACTION**

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

### **ATTACHMENTS**

1. Resolution of the Novato Planning Commission recommending the Novato City Council adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;
2. Resolution of the Novato Planning Commission recommending the Novato City Council approve a Zoning Map Amendment (Rezone), Master Plan and Precise Development Plan, including Design Review;
3. Resolution of the Novato Planning Commission finding and reporting to the Novato City Council that the proposed vacation of the relinquishment of abutter's rights is consistent with the General Plan; and
4. Public Comments

### **ITEMS AVAILABLE TO VIEW AND DOWNLOAD ([www.novato.org/residenceinn](http://www.novato.org/residenceinn))**

1. CEQA IS/MND, dated August 2018;
2. Design Review Commission Staff Report of December 20, 2017;
3. Project Plans

## Agenda Item 2 - Attachment 1

### PLANNING COMMISSION

#### RESOLUTION NO. 2018-\_\_\_\_\_

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE RESIDENCE INN NOVATO ZONING MAP AMENDMENT, MASTER PLAN, PRECISE DEVELOPMENT PLAN, DESIGN REVIEW, AND A VACATION OF A RELINQUISHMENT OF ABUTTER'S RIGHTS, LOCATED AT 7546 REDWOOD BLVD; APN 143-011-06

WHEREAS, the City of Novato ("City") received applications for a zoning map amendment, master plan, precise development plan, design review, and vacation of a relinquishment of abutter's rights for the proposed Residence Inn Novato project at 7546 Redwood Blvd, APN 143-011-06 ("Project"); and

WHEREAS, the Design Review Commission held a duly noticed public hearing on December 20, 2017, where the Design Review Commission made a recommendation that the Planning Commission and City Council approve the design aspects of the project; and

WHEREAS, the City determined that 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 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 included in the environmental checklist provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project and its associated entitlement actions could result in potentially significant impacts to the environment in the CEQA topical areas of Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources. 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; and



WHEREAS, a notice of intent to adopt a mitigated negative declaration describing the City's intent to adopt a Mitigated Negative Declaration for the Project and announcing a 20-day public review period beginning on August 15, 2018, and ending on September 4, 2018, were sent to all affected property owners within 1000 feet of the boundaries of the project site, all Atherton Ranch neighborhood residents, all responsible and trustee agencies, Marin County Clerk, the Federated Indians of the Graton Rancheria, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed Initial Study/Mitigated Negative Declaration prepared for the Project and its associated actions were sent to all affected property owners within 1,000-feet of the boundaries of the project site, all Atherton Ranch neighborhood residents, all public agencies potentially serving the Project or having some oversight of the Project's construction, the Federated Indians of the Graton Rancheria 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 September 7, 2018; and

WHEREAS, the Planning Commission held a public hearing on September 17, 2018, and considered all oral and written comments on the Mitigated Negative Declaration, it's accompanying Initial Study, the Project, and associated actions.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby find and recommend as follows:

### **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 Initial Study/Mitigated Negative Declaration, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Initial Study/Mitigated Negative Declaration, 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) all designs, plans, studies, data and correspondence submitted by the City in connection with the Initial Study/Mitigated Negative Declaration, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Initial Study/Mitigated Negative Declaration, the Project, and the Project's associated development entitlement requests (7) 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. Mitigated Negative Declaration/Initial Study Considered and Recommended**

Based upon information in the Initial Study/Mitigated Negative Declaration for the Project, dated August 2018, 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 proposed Initial Study/Mitigated Negative Declaration 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 proposed Initial Study/Mitigated Negative Declaration was presented to the Planning Commission, which, at a hearing before the public, reviewed and considered the information contained in the Initial Study/Mitigated Negative Declaration 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 Initial Study/ Mitigated Negative Declaration (IS/MND), dated August 2018, 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 Mitigated Negative Declaration/Initial Study and further set forth in its accompanying Mitigation, Monitoring, and Reporting Program ("MMRP"), attached in *Exhibit A*, 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 Initial Study/Mitigated Negative Declaration 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 special 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 – Residence Inn Novato CEQA Mitigation Monitoring and Reporting Program

## Mitigation Monitoring and Reporting Program

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This document is the Mitigation Monitoring and Reporting Program (MMRP) for the Residence Inn Project proposed in the City of Novato. CEQA requires that a reporting or monitoring program be adopted for the conditions of project approval that are necessary to mitigate or avoid significant effects on the environment (Public Resources Code 21081.6). This mitigation monitoring and reporting program is designed to ensure compliance with adopted mitigation measures during project implementation. For each mitigation measure recommended in the Final Initial Study-Mitigated Negative Declaration (Final IS-MND), specifications are made herein that identify the action required and the monitoring that must occur. In addition, a responsible agency is identified for verifying compliance with individual conditions of approval contained in this Mitigation Monitoring and Reporting Program.

In addition to ensuring implementation of mitigation measures, the MMRP provides feedback to agency staff and decision-makers during project implementation, and identifies the need for enforcement action before irreversible environmental damage occurs. This MMRP will be used by City staff or the City's consultant to determine compliance with permit conditions. Violations of these conditions may cause the City to revoke the operating permit.

The following table identifies each mitigation measure included in the Final IS-MND, the action required for the measure to be implemented, the time at which the monitoring is to occur, the monitoring frequency, and the agency or party responsible for ensuring that the monitoring is performed. In addition, the table includes columns for compliance verification. These columns will be filled out by the monitoring agency or party and would document monitoring compliance. Where an impact was identified to be less than significant, no mitigation measures were required. Also included in the following table for reference purposes are two Best Management Practices (BMPs), AQ-1 (Air Quality) and T-1 (Transportation), which were recommended in the IS-MND to reduce the severity of an already less than significant impact. The two BMPs are not mitigation measures but are listed as project-related conditions of approval.



# Attachment 1 - EXHIBIT A

City of Novato  
Residence Inn Project

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
Air Quality <sup>1</sup>						
<b>AQ- 1: Best Air Quality Management Practices</b>						
<p>The applicant shall ensure that the following actions are undertaken during project construction.</p> <ul style="list-style-type: none"> <li>▪ 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>▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>▪ 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 powered sweeping is prohibited.</li> <li>▪ All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>▪ 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 shall be provided for construction workers at all access points.</li> <li>▪ 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.</li> <li>▪ A publicly visible sign shall be posted at the</li> </ul>	<ul style="list-style-type: none"> <li>▪ Verify all exposed surfaces are watered two times per day</li> <li>▪ Verify all haul trucks carrying loose material off site are covered</li> <li>▪ Verify removal of all dirt tracks onto adjacent paved roads are removed daily</li> <li>▪ Verify all vehicle speeds on unpaved roads do not exceed 15 mph</li> <li>▪ Verify all roadways, driveways and sidewalks are paved as soon as possible, and building pads are laid as soon as possible (unless seeding or soil binders are used)</li> <li>▪ Verify idling times are minimized per specifications of the best management practice</li> <li>▪ Verify all construction equipment is maintained per manufacturer’s specifications and is running in proper condition prior to operation</li> <li>▪ Verify that a sign is posted at the project site with the name and telephone number of the on-site construction manager and the telephone number of the Air District</li> </ul>	Ongoing throughout construction as necessary	City of Novato Community Development Department – Planning Division and On-site Construction Manager			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
project site with the name and telephone number of the on-site construction manager to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.						
<b>Biological Resources</b>						
<b>BIO-1: Nesting Bird Surveys and Avoidance</b>						
The applicant shall ensure the following actions are undertaken to avoid or minimize potential impacts to nesting birds. Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 – August 30), if feasible. If breeding season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation clearance and structure demolition. In the event that active nests are discovered, avoidance buffers shall be established as determined by the qualified biologist around such active nests and no construction shall be allowed in the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur in this buffer until the	<ul style="list-style-type: none"> <li>Verify initial ground disturbance activities, including vegetation removal, does not occur during the general avian nesting season (February 1- August 30)</li> <li>If construction commences during the breeding season, verify that a qualified biologist has conducted a preconstruction nesting bird survey to determine the presence/ absence, location, and status of nests on or adjacent to the project site and establish avoidance area buffers if necessary per mitigation.</li> <li>Verify no ground disturbing activities occur in buffer until qualified biologist has confirmed breeding/ nesting is completed and young have fledged the nest</li> </ul>	<p>Prior to issuance of a grading permit</p> <p>No more than 14 days prior to vegetation clearance and structure demolition</p> <p>Ongoing throughout construction as necessary</p>	<p>City of Novato Community Development Department – Planning Division and On-site Construction Manager</p>			

# Attachment 1 - EXHIBIT A

City of Novato  
Residence Inn Project

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
<p>qualified biologist has confirmed that breeding/nesting is completed, and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1; however, if evidence of nesting activity is detected at any time of year, the qualified biologists shall be consulted for guidance moving forward.</p>						
<b>Cultural Resources</b>						
<b>CR-1a: Retain a Qualified Archeologist</b>						
<p>The project applicant shall retain a qualified archaeologist, defined as an archaeologist who meets the Secretary of the Interior’s Professional Qualifications Standards for archaeology (NPS 1983), to carry out all mitigation measures related to archaeological and historic resources.</p>	<ul style="list-style-type: none"> <li>Verify a qualified archaeologist has been retained for the project.</li> </ul>	<p>Prior to beginning of construction</p>	<p>City of Novato Community Development Department – Planning Division and On-site Construction Manager</p>			
<b>CR-1b: Worker Environmental Awareness Program (WEAP)</b>						
<p>A qualified archaeologist shall be retained to conduct a WEAP training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. Archaeological sensitivity training should include a description of the types of cultural material that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. The WEAP shall be provided electronically as a PowerPoint file on the first day of construction.</p>	<ul style="list-style-type: none"> <li>Verify a qualified archeologist has been retained and conducts a pre-construction Worker Environmental Awareness Program (WEAP) training to the specifications of the mitigation measure</li> <li>Verify qualified archeologist submits an electronic copy of the WEAP</li> </ul>	<p>Prior to beginning of construction</p> <p>On first day of construction</p>	<p>City of Novato Community Development Department –Planning Division and On-site Construction Manager</p>			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
<b>CR- 1c: Archeological and Native American Monitoring</b>						
<p>Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior’s Professional Qualifications Standards for prehistoric archaeology (NPS 1983). The project applicant shall consult with the Federated Indians of Graton Rancheria for monitoring activities. A qualified monitor shall be retained as approved by the City for the duration of project ground disturbance to monitor Native American resources. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for significance under CEQA. Archaeological or Native American monitoring or both may be reduced or halted at the discretion of the monitors as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock).</p>	<ul style="list-style-type: none"> <li>▪ Verify a qualified archeological monitor is present for and conducts archeological monitoring during all project-related ground-disturbing activities.</li> <li>▪ Verify that project applicant has consulted with the Federated Indians of the Graton Rancheria for monitoring activities and has retained a qualified monitor to monitor Native American resources</li> <li>▪ Verify all work is halted if archeological or Native American resources are encountered</li> </ul>	<p>Prior to and during ground-disturbing activities</p> <p>Prior to and during ground-disturbing activities</p> <p>As needed if archeological or Native American Resources are encountered</p>	<p>City of Novato Community Development Department – Planning Division and On-site Construction Manager</p>			
<b>CR-1d: Unanticipated Discovery of Cultural Resources</b>						
<p>If cultural resources are encountered during ground disturbing activities, work in the immediate area should be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (NPS 1983) should be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and testing for the California</p>	<ul style="list-style-type: none"> <li>▪ Verify all work is halted if cultural resources are encountered and a qualified archeologist is contacted to evaluate the find</li> </ul>	<p>Ongoing during ground disturbance, immediately after discovery of cultural resources</p>	<p>City of Novato Community Development Department – Planning Division and On-site Construction Manager</p>			

# Attachment 1 - EXHIBIT A

City of Novato  
Residence Inn Project

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
Register of Historical Resources (CRHR) eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be required to mitigate any significant impacts to historical resources.						
<b>CR-1e: Human Remains</b>						
The discovery of human remains is always a possibility during ground disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the Marin County Coroner must be notified immediately. If the human remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission which will determine and notify a most likely descendant (MLD). The MLD shall complete the inspection of the site and make recommendations to the landowner within 48 hours of being granted access.	<ul style="list-style-type: none"> <li>Verify all work is halted if human remains are discovered and the County Coroner is contacted</li> </ul>	Ongoing during ground disturbance, immediately after discovery of human remains	City of Novato Community Development Department – Planning Division and On-site Construction Manager			
	<ul style="list-style-type: none"> <li>Verify County Coroner notifies the Native American Heritage Commission if remains are determined to be prehistoric</li> </ul>	As needed, immediately after determination of age of human remains				
	<ul style="list-style-type: none"> <li>Verify most likely descendant completes inspection of site and makes recommendations to the landowner(s)</li> </ul>	Within 48 hours of granted access				
<b>Geology and Soils</b>						
<b>GEO- 1: Geotechnical Recommendations</b>						
Section 10 of the Geotechnical Engineering Investigation produced by Salem Engineering Group (attached as Appendix D of the project’s Initial Study) provides recommendations that would ensure the project is suitable from a geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation Report shall be implemented as	<ul style="list-style-type: none"> <li>Verify that all recommendations in the Geotechnical Investigation Report as described in Section 10.2 through 10.16 of the report have been implemented in the final approved plans.</li> </ul>	Prior to project and permit approval	City of Novato Community Development Department – Planning Division and On-site Construction Manager			

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
described in Sections 10.2 through 10.16 of the Report. The recommendations address but are not limited to: Earthwork, Engineered Fill Placement and Compaction, Foundation Design, Slab on Grade, Retaining Wall and Basement Wall, lateral earth pressures, temporary excavations and underground utilities.						
<b>Transportation<sup>2</sup></b>						
<b>T-1: Sidewalk and Ramp and Bike Path Improvements</b>						
<p>The applicant shall implement the following best management practices. The following best management practices are recommended to further reduce the severity of the already less than significant impact related to the pedestrian, bicycle and transit network.</p> <ul style="list-style-type: none"> <li>Construction of a 4-foot wide asphalt path along the east side of Redwood Boulevard extending from the project site south to the existing sidewalks fronting Trader Joe’s</li> <li>Construction of an enhanced pedestrian-bicycle crossing on the southern leg of the Redwood Boulevard/Golden Gate Place intersection, such as a rapid rectangular flashing beacon or similarly-functioning device specified by the City.</li> <li>Bicycle lane intersection crossing markings consisting of dashed bike lane lines and green bike lanes shall be installed across the eastern leg of Redwood Boulevard/ Golden Gate Place intersection.</li> <li>Adequate signage shall be installed to alert pedestrians, vehicles, and bicyclists at points of potential conflict. The quantity, placement, and content of signs and/ or pavement markings shall be submitted to the City Engineer for review and approval. The applicant shall reference</li> </ul>	<ul style="list-style-type: none"> <li>Verify construction of an asphalt path along the east side of Redwood Boulevard to the specifications of the best management practice</li> <li>Verify construction of an enhanced pedestrian crossing as specified in the best management practice</li> <li>Verify installation of bike-lane intersection crossing markings as specified in the best management practice</li> <li>Verify adequate signage is installed alerting pedestrians, vehicles, and bicyclists at points of potential conflict as specified in the best management practice</li> </ul>	<p>Prior to Certificate of Occupancy for the first building permit for a new building</p>	<p>City of Novato Community Development Department – Planning Division and On-site Construction Manager</p>			

# Attachment 1 - EXHIBIT A

City of Novato  
Residence Inn Project

Mitigation Measure/ Condition of Approval	Action Required	Monitoring Timing	Responsible Parties	Compliance Verification		
				Initial	Date	Comments
	standardized guides, such as the MUTCD, NACTO publications, and/ or other professional publications to determine Best Management Practices for sign placement.					

<sup>1</sup> AQ-1 is a recommended best management practice to further reduce the severity of an already less-than-significant impact.

<sup>2</sup> T-1 is a recommended best management practice to further reduce the severity of an already less-than-significant impact.

## Agenda Item 2 - Attachment 2

### PLANNING COMMISSION

#### RESOLUTION NO. 2018-\_\_\_\_\_

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE A ZONING MAP AMENDMENT (REZONE), MASTER PLAN AND PRECISE DEVELOPMENT PLAN, INCLUDING DESIGN REVIEW, FOR THE PROPOSED RESIDENCE INN NOVATO PROJECT, LOCATED AT 7546 REDWOOD BLVD; APN 143-011-06

WHEREAS, the City received applications for a Zoning Map Amendment (P2017-056), Master Plan (P2017-057), Precise Development Plan (P2017-058), and Design Review (P2017-060) proposing to develop a 103-room hotel and an 8,000-square-foot commercial building (hereafter "Project"), at 7546 Redwood Blvd, APN 143-011-06; and

WHEREAS, Novato Municipal Code Section 19.42.060.C.3 allows for a Master Plan and Precise Development Plan to be combined and reviewed as a single plan; and

WHEREAS, an Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City of Novato Environmental Review Guidelines, which analyzed the Project, to determine if 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 Project, or the operation and construction of the Project that could not be mitigated to a less than significant level; and

WHEREAS, on December 20, 2017, 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 design aspects to assist the Planning Commission and City Council in considering the Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the other entitlements associated with the Project. The Design Review Commission adopted a motion recommending that the Planning Commission and City Council approve the design aspects for the project, based on the required findings for design review; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the other entitlements associated with the Project and its associated actions were sent to all affected property owners within 1,000-feet of the boundaries of the project site, all Atherton Ranch neighborhood residents, all public agencies potentially serving the Project or having some oversight of the Project's construction, the Federated Indians of the Graton Rancheria 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 September 7, 2018; and

WHEREAS, the Planning Commission held a public hearing on September 17, 2018, to consider and receive public testimony on the Project; 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

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

### **Section 1. Recitals**

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

### **Section 2. Record**

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation on the Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the other entitlements associated with the Project, includes but is not limited to: (1) the Initial Study/Mitigated Negative Declaration and the appendices and technical reports cited in and/or relied upon in preparing the Initial Study/Mitigated Negative Declaration, dated August 2018, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Initial Study/Mitigated Negative Declaration, the proposed Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the Project's other 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) all designs, plans, studies, data and correspondence submitted to the City in connection with the Initial Study/Mitigated Negative Declaration, the proposed Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the other entitlements associated with the Project, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Initial Study/Mitigated Negative Declaration, the Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, Design Review and the other entitlements associated with the Project, the Project, and the Project's associated development entitlement requests (7) 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**

### **Zoning Map Amendment (Rezone)**

Based on the facts set forth herein, the facts and analysis provided in the Planning Commission staff report, dated September 17, 2018, and the record as a whole, the Planning Commission hereby makes the following findings as required by Section 19.56.070.C of the Novato Municipal Code with respect to the proposed Zoning Map Amendment (Rezone):

- a. The Planning Commission hereby finds the proposed amendment is consistent with the General Plan as set forth in the staff report and the Facts in Support of Finding detailed below:

#### **Facts in Support of Finding**

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, as set forth above, the proposed amendment is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site.*

*The Planning Commission finds that the Residence Inn Project is consistent with the following General Plan Policies and Programs: LU Policy 1 Implementation of Land Use Map; LU Policy 2 Development Consistent with General Plan; TR Program 4.1 Establish traffic Level of Service standards; TR Policy 11 Traffic Safety; TR Policy 21 Bicycle Parking; TR Policy 22 Pedestrian Facilities; EN Policy 26 Trees in New Development; EN Policy 39 On-Site Recycling Areas; SF Policy 16 Fire Risk in New Development; SF Policy 37 Noise and Land Use Compatibility Standards; SF Policy 38 Noise Reduction and Mitigation; EC Policy 7 Employment Opportunities; EC Policy 16 Tourism; EC Policy 25 Fiscal Impact Assessment; CI Policy 1 Compatibility of Development with Surroundings; CI Policy 3 Variety in Design; CI Policy 7 Landscaping; CI Policy 9 Underground Utilities; CI Policy 12 Parking Standards; CI Policy 14 Open Areas and Landscaping; CI Policy 15 Pedestrian Path; CI Policy 32 Public Art;*

- b. The Planning Commission hereby finds that the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City as set forth in the staff report and the Facts in Support of Finding detailed below:

#### **Facts in Support of Finding**

*Based on the analysis provided in the Record, and the analysis of the Draft IS/MND, no detrimental impacts to the public interest, health, safety, convenience, or welfare of the City were identified. The project has been reviewed by the Novato Fire Protection District, the City Engineer, and other agencies that will provide service to the project site. Those agencies have provided the City with comments and recommended conditions of approval regarding the project design and their ability to serve the project. Agency recommended conditions of*

*approval have been included with the entitlements to ensure that the project will not be detrimental to public interest, health, safety, convenience, or welfare of the City.*

- c. The Planning Commission hereby finds that the proposed amendment has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines as set forth in the staff report and the Facts in Support of Finding detailed below:

Facts in Support of Finding

*A CEQA Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project in compliance with CEQA and the Novato Environmental Review Guidelines. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including future occupants of the Project, nearby residents, building occupants, and workers, and the City's residents at large. These topics include: aesthetics, air quality, biological resources, cultural resources, geology/soils, greenhouse gas emissions, hazards/hazardous materials, hydrology/water quality, land use/planning, noise, population/housing, recreation, tribal cultural resources, transportation/traffic, and utilities/services. In no instance did the MND/IS identify any significant impacts associated with map amendment or the Project that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The mitigation measures presented in the IS/MND will be applied to the Project as conditions of approval. Based on these findings and the findings contained in the resolution approving the MND it can be found that the proposed project has been reviewed in compliance with the CEQA Guidelines.*

- d. The Planning Commission hereby finds that the site is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provisions of utilities) for the requested zoning designations and anticipated land uses/developments as set forth in the staff report and the Facts in Support of Finding detailed below:

Facts in Support of Finding

*The Project Site is nearly flat, clear of physical constraints and is located in an area predominantly characterized by commercial and industrial uses on the east side of Redwood Blvd. There are existing and proposed residential uses on the west side of Redwood Blvd., but due to the width and configuration of Redwood Blvd., there is adequate buffer between the Project Site and those residential uses.*

*The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site prescribed in the General Plan. Based these findings and the findings contained in the resolution approving the zoning map amendment, the project is physically suitable for the requested zoning designation and anticipated development.*

## Master Plan

Based on the facts set forth in the Record, including but not limited to the facts and analysis provided in the Planning Commission staff report, dated September 17, 2018, and the record as a whole, 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:

- a. The Planning Commission hereby finds that the Master Plan is in conformance with the applicable goals and policies of the General Plan as set forth in the Planning Commission staff report incorporated herein by reference and the Facts in Support of Finding detailed below:

### Facts in Support of Finding

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, the proposed master plan is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site.*

*The Planning Commission finds that the Residence Inn Project is consistent with the following General Plan Policies and Programs: LU Policy 1 Implementation of Land Use Map; LU Policy 2 Development Consistent with General Plan; TR Program 4.1 Establish traffic Level of Service standards; TR Policy 11 Traffic Safety; TR Policy 21 Bicycle Parking; TR Policy 22 Pedestrian Facilities; EN Policy 26 Trees in New Development; EN Policy 39 On-Site Recycling Areas; SF Policy 16 Fire Risk in New Development; SF Policy 37 Noise and Land Use Compatibility Standards; SF Policy 38 Noise Reduction and Mitigation; EC Policy 7 Employment Opportunities; EC Policy 16 Tourism; EC Policy 25 Fiscal Impact Assessment; CI Policy 1 Compatibility of Development with Surroundings; CI Policy 3 Variety in Design; CI Policy 7 Landscaping; CI Policy 9 Underground Utilities; CI Policy 12 Parking Standards; CI Policy 14 Open Areas and Landscaping; CI Policy 15 Pedestrian Path; CI Policy 32 Public Art;*

- b. The Planning Commission hereby finds that the proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities as set forth in the staff report and the Facts in Support of Finding detailed below:

### Facts in Support of Finding

*The project site is located in the central area of Novato. The applicant, at the request of the Novato Sanitary District, completed a Sewer Capacity Study that concluded that there is adequate downstream sewer capacity to accommodate the proposed development. Additionally, the North Marin Water District, Novato Fire Protection District, and City departments have reviewed the project and provide conditions of approval, as necessary, to ensure that the project is developed in a manner consistent with their development standards. Recycled water will be used on-site for landscaping, as required by the North Marin Water District. Therefore, the proposed master plan development can be found to be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.*

- c. The Planning Commission hereby finds that the proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and
- d. The Planning Commission hereby finds that the proposed 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 as set forth in the staff report and the Facts in Support of Finding detailed below:

Facts in Support of Finding (c. and d.)

*The Project Site is nearly flat, clear of physical constraints and is located in an area predominantly characterized by commercial and industrial uses on the east side of Redwood Blvd. There are existing and proposed residential uses on the west side of Redwood Blvd., but due to the width and configuration of Redwood Blvd., there is adequate buffer between the Project Site and those residential uses.*

*The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site.*

*The proposed Master Plan land uses and project density/intensity is suitable to the project site and is compatible with the site vicinity. The permitted and conditionally permitted uses described in the Master Plan text land use table are consistent with the existing, proposed, and future land uses described in the zoning code, general plan, and draft General Plan 2035 document. Additionally, the North Redwood Blvd Corridor Study was utilized to determine suitable land uses to ensure that incompatible uses that are not consistent with the corridor vision are prohibited at the site. The project is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. The proposed project does not exceed anticipated levels of development at the site. Access to the site from Redwood Blvd. and Golden Gate Place is adequately sized to accommodate visitors to the site and emergency vehicles. A traffic impact analysis was completed for the CEQA IS/MND, and no significant impacts were identified; recommended safety and connectivity improvements identified in the traffic impact analysis are included as recommended conditions of approval for the project. Therefore, the project is reasonably suited to the specific characteristics of the site and the surrounding neighborhood, and is compatible with existing and future land uses in the surrounding neighborhood.*

## Precise Development Plan

Based on the facts set forth herein, the facts and analysis provided in the Planning Commission staff report, dated September 17, 2018, all other items and documents listed in *Section 2. Record* of this resolution, and the record as a whole, 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 Precise Development Plan as described in Exhibit A attached hereto and depicted on the Residence Inn Plan Set:

- a. The Planning Commission hereby finds that the proposed Precise Development Plan is consistent with the General Plan, and the Master Plan (considered concurrently herein), and the Facts in Support of Finding detailed below:

### Facts in Support of Finding

*Based on the analysis of the project's consistency with the Novato 1996 General Plan, above, the proposed precise development plan is in conformance with the applicable goals and policies of the General Plan. There is no applicable specific plan at the project site. The PDP is being developed in concert with the Master Plan for the site. The PDP is consistent with the proposed Master Plan.*

- b. The Planning Commission hereby finds that 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 as set forth in the staff report and the Facts in Support of Finding detailed below:

### Facts in Support of Finding

*The project has been designed to conform to the recommended design-related guidelines of the North Redwood Blvd Corridor Study (NRBC), dated January 2014. Design components consistent with the NRBC include 1) public gathering places and ample outdoor seating; 2) extensive landscaping with shade trees; 3) pedestrian and bicycle facilities, including wide pedestrian sidewalks and a bicycle path along the Redwood Blvd frontage; 4) the detached commercial building is located along the Redwood Blvd frontage; 5) the parking lot is largely hidden from the Redwood Blvd corridor due to building placement and other amenities; and 6) the buildings will incorporate four-sided architecture through the design review process. The extensive orchard-style off-street parking lot includes additional landscape fingers with trees in excess of the code requirement. Additionally, the public gathering places and outdoor seating areas is another factor that has resulted in a reduced number of off-street parking stalls. To compensate, the applicant, with input from City Planning and Engineering staff, has proposed public right-of-way improvements intended to reduce vehicular speeds, increase the tree canopy along Redwood Blvd, and provide a more pleasant pedestrian experience along the frontage of the site.*

- c. The Planning Commission hereby finds that 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 as set forth in the staff report and the Facts in Support of Finding detailed below:

Facts in Support of Finding

*The proposed project was referred to the Novato Police Department, Novato Fire Protection District, and public utilities. Those agencies have provided recommended conditions of approval, where appropriate, to ensure that emergency vehicle access and utilities services are provided. Additionally, staff has reviewed the project for consistency with the Novato Municipal Code and completed CEQA environmental review. Recommended mitigation measures and/or conditions of approval will ensure that the project will not 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 project is located.*

- d. The Planning Commission hereby finds that 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
- e. The subject site is:
- 1) Physically suitable for the type and density/intensity of development being proposed; and
  - 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 Zoning Ordinance; 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 as set forth in the staff report and the Facts in Support of Finding detailed below:

Facts in Support of Finding (d. and e.)

*The proposed Master Plan land uses and project density/intensity is suitable to the project site and is compatible with the site vicinity. The Commercial/Industrial General Plan Land Use designation allows a 1.0 Floor Area Ratio (FAR). The proposed Master Plan includes a maximum FAR of 0.65, and the proposed development has an FAR of 0.643. The permitted and conditionally permitted uses described in the Master Plan text land use table are consistent with the existing, proposed, and future land uses described in the zoning code, General Plan, and draft General Plan 2035 document. Additionally, the North Redwood Blvd Corridor Study was utilized to determine suitable land uses to ensure that incompatible uses that are not consistent with the vision of the corridor are prohibited at the site. The project*

*is consistent with the allowable land uses and development intensities prescribed in the General Plan for the Commercial/Industrial land use designation. The proposed uses are permitted or conditionally permitted in the Novato Zoning Code for the Commercial/Industrial zoning district. Access to the site from Redwood Blvd. and Golden Gate Place is adequately sized to accommodate visitors to the site and emergency vehicles. A traffic impact analysis was completed for the CEQA IS/MND, and not significant impacts were identified; recommended safety and connectivity improvements identified in the traffic impact analysis are included as recommended conditions of approval for the project. The CEQA IS/MND also analyzed potential impacts to aesthetics, air quality, noise, public services, and utilities. In all instances, where potential impacts were identified, feasible mitigation measures were identified to reduce said impacts to a less than significant level.*

*The 3.05-acre project site is adequate in size to accommodate the proposed buildings, parking, landscaping, and other features. A four-foot high black cyclone fence is proposed along the east property line to provide separation between the project site and the railroad tracks. A loading space is provided adjacent to the trash enclosure along the eastern property line also.*

*The project was presented to the Novato Design Review Commission on September 6, 2017, and December 20, 2017. The purpose of these meetings was to review the Project's site design, massing, and architectural 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 (DRC) adopted a motion recommending the Planning Commission and City Council approve the site design, massing, and architectural concepts for the Project. The DRC recognized the Project for its well resolved site plan, appropriate mass/scale, and architecture. The DRC's recommendation was based on the required findings for Design Review and applicable design related policies of the Novato General Plan.*

## **Design Review**

Based on the recommendation of the Design Review Commission, the Planning Commission hereby makes the following findings as required by Section 19.42.030.F of the Novato Municipal Code with the respect to the design aspects of the proposed Bahia Heights Master Plan and Precise Development Plan as described in Exhibit A attached hereto, and depicted on the Residence Inn Plan Set:

1. The Planning Commission hereby finds that the proposed design, layout, size, architectural features and general appearance of the proposed project is consistent with the General Plan, with the development standards, design guidelines and all applicable provisions of the Municipal Code, including this Zoning Ordinance and any approved Master Plan and Precise Development Plan as set forth in the staff reports and the Facts in Support of Finding detailed below:



### Facts in Support of Finding

*The Planning Commission finds that the Residence Inn Project is consistent with the following design-related General Plan goals and policies: CI Policy 1 Compatibility of Development with Surroundings; CI Policy 3 Variety in Design; CI Policy 7 Landscaping; CI Policy 9 Undergrounding Utilities; CI Policy 12 Parking Standards; CI Policy 14 Open Areas and Landscaping; CI Policy 15 Pedestrian Paths; and CI Policy 32 Public Art. Additionally, the project is consistent with the allowable floor area ratio (FAR) of up to 1.0. The proposed design is consistent with the Planned District zoning classification, and the North Redwood Blvd Corridor Study. The project has also been reviewed by the Novato Public Works Engineering Division for consistency with Novato Municipal Code Chapter V (Development Standards). The proposed Master Plan and Precise Development Plan has been developed to*

2. The Planning Commission hereby finds that 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 of Finding

*The Planning Commission finds that the Residence Inn project is consistent with the North Redwood Boulevard Corridor Study (NRBC) guidelines, with the inclusion of public gathering places and ample outdoor seating, extensive landscaping and shade trees, pedestrian and bicycle connections, wide pedestrian sidewalks and a bicycle path along Redwood Blvd, site planning and building location, parking lot design, and four-sided architecture, as demonstrated in the site design depicted in the Project plan set.*

3. The Planning Commission hereby finds that 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 as set forth in the staff report and the Facts in Support of Finding detailed below:

### Facts in Support of Finding

*The project plans were referred to public agencies responsible for reviewing and providing services, including Novato Public Works, North Marin Water District, Novato Sanitary District, and Novato Fire Protection District. These agencies have submitted comments and/or conditions addressing matters such as pedestrian and bicycle access, adequacy of drainage facilities, and water and sewer service. While the construction level plans have yet to be prepared and submitted for final approval, none of the responsible agencies identified issues that would require significant changes to the site and/or building design that, less addressed, represent a detriment to public health, safety, or welfare, nor be materially injurious to project occupants, visitors and surrounding properties or improvements in the vicinity. Environmental review, pursuant to the California*

*Environmental Quality Act (CEQA) and the City's Environmental Review Guidelines, will be completed prior to a Planning Commission hearing. Any potential hazards to traffic, pedestrians, or bicycles will be identified and adequately mitigated if any hazards exist.*

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends the City Council adopt an ordinance approving the proposed Residence Inn Zoning Map Amendment depicted in Exhibit A attached hereto, and adopt an ordinance approving the Master Plan and Precise Development Plan, as more specifically detailed in Exhibit B attached hereto, and depicted on the Residence Inn Plan Set, and incorporated herein by reference, based on the findings set forth above, and the record as a whole, and subject to the condition of approval noted below:

#### Conditions of Approval

1. The project shall comply with the conditions of approval specified in Exhibit C, attached hereto and incorporated by reference.

#### 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 special 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

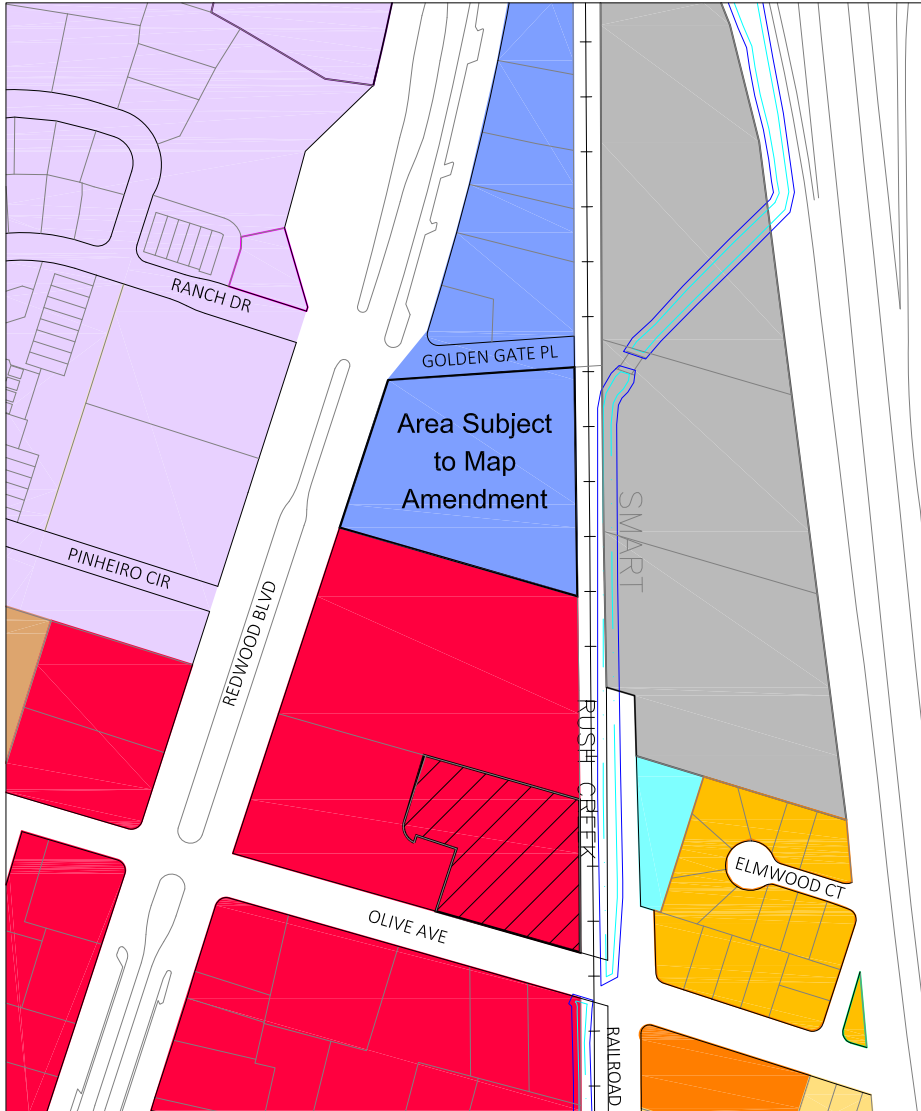
Attachments

- Exhibit A – Zoning Map Amendment Exhibit
- Exhibit B – Residence Inn Master Plan and Precise Development Plan Text
- Exhibit C – Conditions of Approval

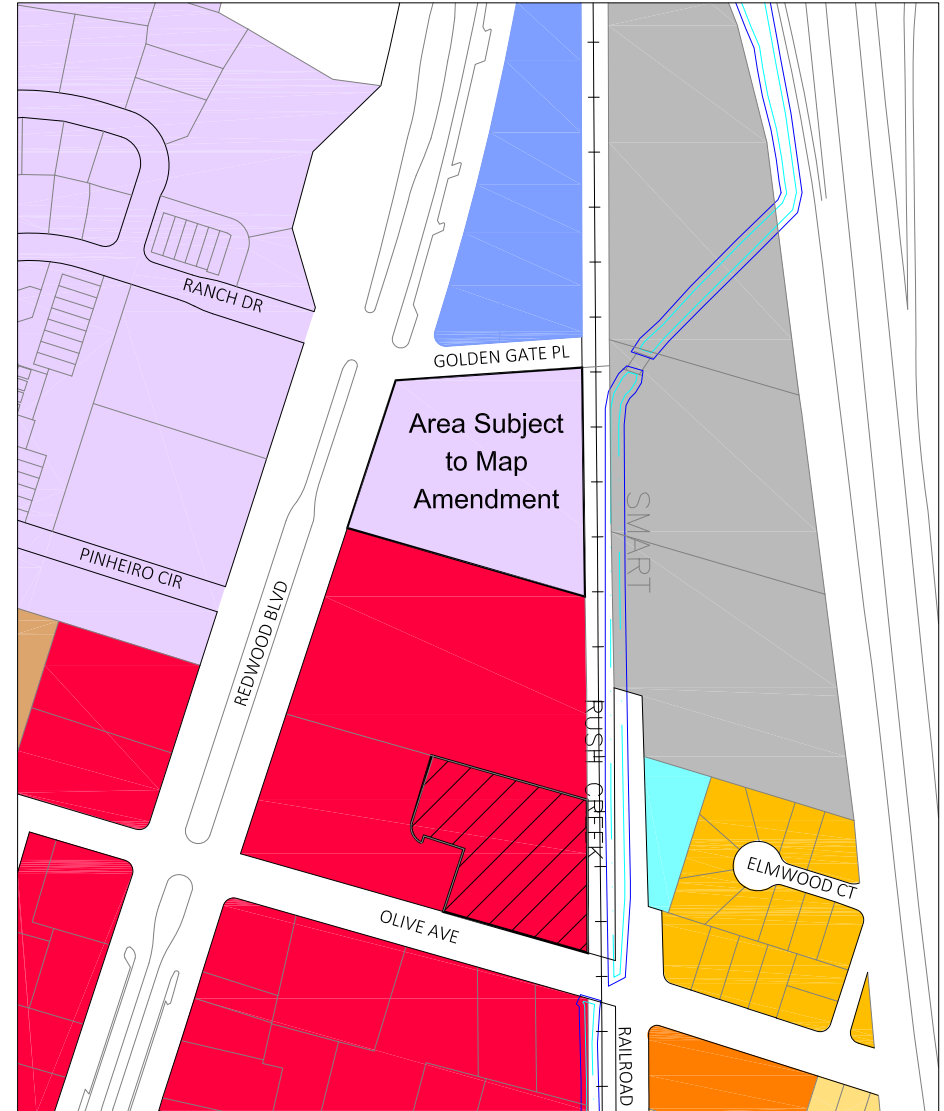
# Residence Inn - Novato (7546 Redwood Blvd)

## Zoning Map Amendment Attachment 2 - EXHIBIT A

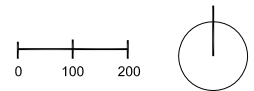
### Current Zoning



### Proposed Zoning



- Legend**
- |   |  |                              |                                 |                               |
|---|--|------------------------------|---------------------------------|-------------------------------|
| Community Facilities (CF)                     | General Commercial (CG)                  | Commercial Industrial (CI)   | Planned District (PD)           | Light Industrial Office (LIO) |
| Medium Density Multi Family Residential (R10) | Medium Density Detached Residential (R4) | Low Density Residential (R1) | Medium Density Residential (R5) |                               |



**Attachment 2 - EXHIBIT B**

**RESIDENCE INN NOVATO MASTER PLAN AND PRECISE DEVELOPMENT PLAN TEXT**

**AMENDMENTS TO THIS MASTER PLAN AND PRECISE DEVELOPMENT PLAN**

Novato Municipal Code process, as may be amended from time to time.

**MASTER PLAN**

**ALLOWABLE LAND USES**

<b>Land Use</b>	<b>Permitted*</b>	<b>Use Permit Required^</b>
Automated Teller Machines (ATMs) (Non-Drive Through)	Yes	-
Bar and Nightclub	-	Yes
Drive-in and Drive-through Sales	-	-
Florists	Yes	-
General Retail	Yes	-
Health/Fitness Facilities	Yes	-
Hotels and Motels	Yes	
Indoor Amusement/Entertainment Facilities	-	Yes
Massage Establishments	-	Yes
Massage Establishments - Small	Yes	-
Outdoor Display Retail Sales, Permanent	-	Yes
Outdoor Displays Retail Sales, Temporary	Yes	-
Personal Services	Yes	-
Restaurants and Outdoor Dining Areas, Including Incidental On-site Alcohol Sales	Yes	-
Similar Uses Allowed as determined by the Zoning Administrator pursuant to Novato Municipal Code Section 19.02.020.F	Yes~	Yes~
Studios – Art, Dance, Martial Arts, etc.	-	Yes
Telecommunication Facilities: Co-location on existing buildings with existing permitted antennas	Yes	-
Telecommunications Facilities: New Building-Mounted Facilities, and Expansions of Existing Facilities that do not qualify for a Federal or State exemption from discretionary review	-	Yes

\* Permitted uses are those uses that do not require discretionary approval and are considered ministerial.

^ Uses that require Use Permit approval are considered discretionary, and may be subject to additional environmental review pursuant to CEQA.

~ If the Zoning Administrator makes a determination that a use is similar in nature to one or more uses listed in this Master Plan Land Use Table, the Zoning Administrator will also make a determination whether the use is permitted or whether use permit approval is required.

**ALLOWABLE DENSITY AND INTENSITY OF DEVELOPMENT**

Maximum Floor Area Ratio: 0.65

Maximum Building Coverage: 40 percent

**PRECISE DEVELOPMENT PLAN**

**MINIMUM LOT SIZE**

None

**MAXIMUM BUILDING COVERAGE**

40 Percent

**MAXIMUM HEIGHT**

Hotel: 53 feet

Other Buildings: 35 feet

**MINIMUM SETBACKS** - See Novato Municipal Code for measurement of setbacks, allowed projections into setbacks, and exceptions to setbacks.

Front: Zero Feet

Sides (each): Zero Feet, or 6 Feet if Adjacent to a Single-Family Residential Zone

Rear: Zero Feet, or 6 Feet if Adjacent to a Single-Family Residential Zone

**OFF-STREET PARKING**

106 spaces are required if over 84,000 square feet, but less than 85,500 square feet, of building area is constructed; or

119 spaces are required if over 85,500 square feet of building area is constructed.

**LANDSCAPING**

Landscaping shall be maintained in a manner consistent with the approved landscape plan.

## Attachment 2 - EXHIBIT C

### Residence Inn Conditions of Approval

#### Mitigation Measures

1. The following mitigation measure shall be implemented to reduce potentially significant impacts to nesting birds and special status wildlife:

##### **BIO-1** Nesting Bird Surveys and Avoidance

The applicant shall ensure the following actions are undertaken to avoid or minimize potential impacts to nesting birds. Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 – August 30), if feasible. If breeding season avoidance is not feasible, the applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location, and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided. To avoid the destruction of active nests and to protect the reproductive success of birds protected by the MBTA and CFGC, nesting bird surveys shall be performed not more than 14 days prior to scheduled vegetation clearance and structure demolition. In the event that active nests are discovered, avoidance buffers shall be established as determined by the qualified biologist around such active nests and no construction shall be allowed in the buffer areas until a qualified biologist has determined that the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur in this buffer until the qualified biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between August 30 and February 1; however, if evidence of nesting activity is detected at any time of year, the qualified biologists shall be consulted for guidance moving forward.

2. The following mitigation measures shall be implemented to reduce potentially significant impacts relating to the possible discovery of archaeological resources during project implementation:

##### **CR-1a** Retain a Qualified Archaeologist

The project applicant shall retain a qualified archaeologist, defined as an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology (NPS 1983), to carry out all mitigation measures related to archaeological and historic resources.

##### **CR-1b** Worker Environmental Awareness Program (WEAP)

A qualified archaeologist shall be retained to conduct a WEAP training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing

activities. Archaeological sensitivity training should include a description of the types of cultural material that may be encountered, cultural sensitivity issues, regulatory issues, and the proper protocol for treatment of the materials in the event of a find. The WEAP shall be provided electronically as a PowerPoint file on the first day of construction.

#### **CR-1c** Archaeological and Native American Monitoring

Initial project-related ground-disturbing activities shall be observed by a qualified archaeological monitor under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for prehistoric archaeology (NPS 1983). The project applicant shall consult with the Federated Indians of Graton Rancheria for monitoring activities. A qualified monitor shall be retained as approved by the City for the duration of project ground disturbance to monitor Native American resources. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for significance under CEQA. Archaeological or Native American monitoring or both may be reduced or halted at the discretion of the monitors as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 60 percent of rough grading. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock).

#### **CR-1d** Unanticipated Discovery of Cultural Resources

If cultural resources are encountered during ground disturbing activities, work in the immediate area should be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (NPS 1983) should be contacted immediately to evaluate the find. If necessary, the evaluation may require preparation of a treatment plan and testing for the California Register of Historical Resources (CRHR) eligibility. If the discovery proves to be significant under CEQA and cannot be avoided by the project, additional work, such as data recovery excavation, may be required to mitigate any significant impacts to historical resources.

#### **CR-1e** Human Remains

The discovery of human remains is always a possibility during ground disturbing activities. If human remains are found, the State of California Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. In the event of an unanticipated discovery of human remains, the Marin County Coroner must be notified immediately. If the human remains are determined to be prehistoric, the Coroner will notify the Native American Heritage Commission which will determine and notify a most likely descendant (MLD). The MLD shall complete the inspection of the site and make recommendations to the landowner within 48 hours of being granted access.



3. The following mitigation measure shall be implemented to reduce potentially significant impacts relating to shallow groundwater and liquefaction:

#### **GEO-1 Geotechnical Recommendations**

Section 10 of the Geotechnical Engineering Investigation produced by Salem Engineering Group (attached as Appendix D of the project's Initial Study) provides recommendations that would ensure the project is suitable from a geotechnical standpoint, and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation Report shall be implemented as described in Sections 10.2 through 10.16 of the Report. The recommendations address but are not limited to: Earthwork, Engineered Fill Placement and Compaction, Foundation Design, Slab on Grade, Retaining Wall and Basement Wall, lateral earth pressures, temporary excavations and underground utilities.

#### **Conditions of Approval**

4. All adopted mitigation measures, detailed in the Residence Inn IS/MND and listed in the Mitigation Monitoring and Reporting Program, shall be considered Conditions of Approval.
5. The following air quality best management practices shall be implemented during site disturbance activities and project development:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
  - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
  - 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.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - 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.
  - 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 shall be provided for construction workers at all access points.
  - 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.
  - A publicly visible sign shall be posted at the project site with the name and telephone number of the on-site construction manager to contact regarding dust complaints. This

person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

6. The following pedestrian and bicycle improvements shall be constructed prior to issuance of a Certificate of Occupancy for the first building permit for either the proposed hotel building or the proposed detached commercial building.
  - a. Construction of a 4-foot wide asphalt path within the public right-of-way along the east side of Redwood Boulevard extending from the project site south to the existing sidewalk, a distance of approximately 360 feet.
  - b. Construction an enhanced pedestrian-bicycle crossing on the southern leg of the Redwood Boulevard/Golden Gate Place intersection, such as a rapid rectangular flashing beacon or similarly-functioning device specified by the City.
  - c. Bicycle lane intersection crossing markings consisting of dashed bike lane lines and green bike lanes shall be installed across the eastern leg of the Redwood Boulevard/Golden Gate Place intersection.
  - d. Adequate signage shall be installed to alert pedestrians, vehicles, and bicyclists at points of potential conflict regarding the required improvements described in subsections a., b., and c. The quantity, placement, and content of signs and/or pavement markings shall be submitted to the City Engineer for review and approval. The Manual on Uniform Traffic Control Devices (MUTCD), National Association of City Transportation Officials (NACTO) publications, and/or other professional publications shall be utilized to determine best management practices for sign placement.
7. The Master Plan and Precise Development Plan shall only become valid upon approval of the zoning map amendment (rezone) required for the Project by the City Council.
8. The project shall comply with Novato Municipal Code Division 19.21 (Art Program).
9. The Precise Development Plan shall expire two years from the date of final City Council action on the Master Plan required for the Project, within which time a final Design Review approval must be obtained.
10. 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 Nos. 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.
11. The project shall be constructed in accordance with the design plans, prepared by DesignCell Architecture, dated 05/28/2018.

12. The applicant, or any successor interest, shall have the ability to construct the Project according to the alternative site plan included in the design plans, prepared by DesignCell Architecture, dated 7/11/2018, if agreement cannot be reached with ROIC California, LLC, regarding the Redwood Blvd. shared access, as shown on the primary site plan.
13. The Project shall return to the Design Review Commission for action on the final details of the project's site design, architecture, and landscaping prior to issuance of a building permit. The submittal shall include architectural detailing (i.e. window and door types, and trim and/or wall relief, materials and dimensions, exterior colors, and tree and plan species locations and size, and type and style of exterior lighting fixtures).
14. 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.

The following conditions of approval shall be met to the satisfaction of the Novato Fire Protection District (NFPD), as detailed in the NFPD letter dated March 22, 2018:

- 15. Regarding the single-story building, 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 Marshall 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.

16. Regarding the multi-story building, an automatic fire sprinkler system shall be installed throughout in accordance with NFPA Std. 13 and wet 2-1/2 inch hose outlets shall be installed in all stairwells at each floor. Plans and hydraulic calculations shall be submitted to the Fire Marshall 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.
17. 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.
18. 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 4-1/2 inch and one 2-1/2 inch outlets. Installation shall conform to the specifications of the North Marin Water District.
19. Fire hydrants shall be installed in accordance with the applicable standard, tested and operated prior to framing.
20. Fire hydrants shall be painted Rustoleum high glass yellow or equal. Hydrant shall have a blue reflective roadway marker installed per NFD Standards.
21. Proposed roads and driveways shall not exceed 18% grade.
22. 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.
23. Roadways shall not be 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.
24. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
25. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
26. "Knox" key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.
27. A business shall create and maintain a pre-plan per Fire Protection District ordinance.

28. Stairway markings and identification shall be installed and maintained on the interior landing doors conforming to Novato Fire District Standard #116.
29. 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.
30. A building and 'Floor Plan Directory' shall be installed in all locations required by the Fire Marshal, and conforming to Novato Fire Protection standard #205A.
31. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
32. Maximum occupant capacity signs shall be installed as required by the Fire Marshal conforming to Fire District Standard #115.
33. Due to limited fire department access, roof hatches shall be installed at each interior stairwell, as approved by the Fire Marshal.
34. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.
35. Fire Alarm Deferred Submittal Review that conforms to NFPA 72, California Fire and Building Code, State Fire Marshal Building Standards and Regulations, and Novato Fire District Standard #400 is required.

The following conditions of approval shall be met to the satisfaction of the North Marin Water District (NMWD), as detailed in the NMWD letter dated March 20, 2018:

36. Construction of new water distribution facilities will be required for this project. The owner must apply to the District, enter into an agreement with the District and complete financial arrangements for the new facilities as a condition of project approval.
37. New water use demands shall be submitted to the District.
38. On-site facilities shall be designed and constructed to use recycled water for landscape irrigation. Provisions shall be made, as directed by the District, to allow for connection to an existing recycled water distribution main fronting the property.
39. Easements shall be dedicated where necessary for District facilities (both potable and recycled water) to serve this project.
40. Separate fire service shall be required for commercial/retail structures.

41. Separate meter for landscaping demands shall be required.
42. Occupancy approval shall not be granted until any applicable water service installation and/or compliance sign-off is complete.
43. The project shall conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures for both indoor fixtures/appliances and landscaping refer to Regulation 15 at nmwd.com.
44. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter is required in accordance with the District’s Regulation 6 and California Department of Health Regulations (Title 17).

The following conditions of approval shall be met to the satisfaction of the Novato Sanitary District (NSD):

45. The project shall conform to the requirements of the Novato Sanitary District.

The following conditions of approval shall be met to the satisfaction of the City of Novato Community Development Department - Building Division:

46. Building permits shall be obtained as required by the California Building Code and the City of Novato Building Division.

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

**General Conditions of Approval:**

47. 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 Uniform Construction Standards All Cities and County of Marin, 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.
48. Applicant shall be responsible for all City plan check and inspection costs. The Applicant shall 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 and inspection costs.

49. 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 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. An Encroachment Permit will not be issued prior to the approval of the Improvement Plans and the execution of an Improvement Agreement.
50. 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, except for the existing overhead high-voltage electrical transmission lines and the single associated metal utility pole. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way 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 subject to the approval of the appropriate utility company.
51. 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. No new well or septic systems are permitted on the subject property.
52. A detailed design level 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.

53. A drainage study 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, narrative and exhibits 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.

54. 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.
55. Prior to the approval of the Improvement Plans and prior to the issuance of a grading permit, the applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Novato Fire Protection District, Department of Fish and Game and U.S. Army Corp of Engineers. 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.
56. 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.
57. Prior to City approval of the Improvement Plans, Applicant shall obtain signatures from representatives of the Novato Fire Protection District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
58. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
59. 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.
60. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil shall be noted in the improvement plans.
61. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
62. 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:**

63. The Applicant shall submit Improvement Plans prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Residence Inn by Marriott preliminary civil plans (6 sheets) prepared by Adobe Associates, Inc., dated July 9, 2018, (Preliminary Plans) except as may be modified to conform to the alternative site plan dated July 11, 2018.
64. Applicant shall construct all of the **Public Improvements** generally as shown on the Preliminary Plans and more specifically described below.
  - a. Widen Redwood Boulevard along the entire frontage of the parcel to accommodate a new diagonal parking lane, a 6-foot wide Class 4 bicycle path (with a minimum 2-foot wide separation from face of curb) and an 8-foot wide sidewalk. Frontage improvements shall also include curb, gutter, streetlights and landscaping. The Class 4 bicycle path shall include appropriate signing and pavement markings and reflective signage shall be added to the existing metal utility pole
  - b. Widen Golden Gate Place along the entire frontage of the parcel to accommodate a new perpendicular parking lane and a 7-foot wide sidewalk. Frontage improvements shall also include curb, gutter, streetlights and landscaping.
  - c. The new parking lanes along shall include a total of at least two ADA compliant accessible parking spaces, one of which shall be van accessible.
  - d. Install new directional pedestrian ramps (pointing users in the direction of travel of the new crosswalks) meeting current standards at the northeast, southeast (2) and southwest corners of the Redwood Boulevard/Golden Gate Place intersection. Reconstruct or replace the existing pedestrian ramps in the median of Redwood Boulevard, if necessary, to meet current standards
  - e. Install storm drain facilities and appurtenances within Redwood Boulevard and Golden Gate Place to accommodate runoff from the road widenings and in accordance with the final approved drainage report.
  - f. Construct permanent post-construction stormwater treatment facilities to accommodate the road widenings and in accordance with the final approved SWCP.
  - g. Relocate the existing sanitary sewer running through the parcel into the public right-of-way.
  - h. Install crosswalks on the southern and eastern legs of the Redwood Boulevard/Golden Gate Place intersection. The crosswalk on the southern leg of the intersection shall include RRFBs or similar-functioning devices and advance signage at the discretion of the City

Engineer.

- i. Install bicycle lane intersection crossing markings across the eastern leg of the Redwood Boulevard/Golden Gate Place intersection connecting the new Class 4 path to the existing Class II lane to the north.
  - j. Construct a paved pedestrian path along the east side of Redwood Boulevard within the public right-of-way from the frontage sidewalk south to the existing sidewalk adjacent to APN 143-011-07 (Trader Joe's). This path shall be graded and/or shall include drainage facilities as necessary to maintain existing storm water runoff patterns.
65. Applicant shall construct all of the **Private Improvements** generally as shown on the Preliminary Plans and more specifically described below.
- a. Install onsite storm drain facilities in accordance with the final approved drainage report.
  - b. Construct the permanent on-site private post-construction stormwater treatment facilities in accordance with the approved final SWCP.
66. Prior to issuance of any building permit, applicant shall dedicate public pedestrian access easements as follows:
- a. A 7-foot wide public pedestrian access easement over the parcel along the Golden Gate frontage.
  - b. A public pedestrian access easement of sufficient width (approximately 1.6-feet) and length to provide a minimum of 4-feet of public pedestrian access along Redwood Boulevard west of the large metal utility pole.
- The Applicant shall prepare all necessary legal descriptions, plats and deeds and submit them to the City for review. Copies of the recorded deeds shall be submitted to the City.
67. Prior to issuance of any building permit, Applicant shall dedicate a public sanitary sewer easement to Novato Sanitary District (NSD) for the portions of existing and proposed sanitary sewer main within the parcel. Dimensions of said easement shall be as approved by NSD. The Applicant shall prepare all necessary legal descriptions, plats and deeds and submit them to the City and NSD for review. Copies of the recorded deeds shall be submitted to the City and NSD.
68. Prior to issuance of any building or grading permit, the Applicant shall enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all Public Improvements and Private Improvements required by these conditions and as shown on the approved Improvement Plans, 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.

69. Prior to issuance of any building permit, Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs. Once approved and prior to issuance of any building permit, the property owner shall enter into a Stormwater Maintenance Agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices.

**Construction Conditions of Approval:**

70. 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.
71. 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.
72. 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.
73. 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.
74. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" 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.

75. 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.
76. 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."
77. 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.
78. 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.
79. 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.
80. 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.
81. 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:**

82. 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.
83. Prior to occupancy of any building, the Applicant shall provide a letter from the Civil Engineer

of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.

84. 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.

Agenda Item 2 - Attachment 3

PLANNING COMMISSION

RESOLUTION NO. 2018 - \_\_\_\_\_

RESOLUTION OF THE NOVATO PLANNING COMMISSION FINDING AND REPORTING TO THE NOVATO CITY COUNCIL THAT THE PROPOSED VACATION OF THE REINQUISHMENT OF ABUTTER'S RIGHTS, LOCATED ALONG THE EAST SIDE OF REDWOOD BLVD SOUTH OF GOLDEN GATE PLACE AND NORTH OF OLIVE AVENUE, AND MORE SPECIFICALLY DESCRIBED IN EXHIBIT A; ASSESSOR'S PARCEL NUMBERS (APN) 143-011-06 AND 143-011-05, IS CONSISTENT WITH THE GENERAL PLAN

WHEREAS, Tharaldson Hospitality Development, the applicant for the Residence Inn project, located at 7546 Redwood Blvd. ("Project") has requested that the City Council approve a vacation of a relinquishment of abutter's rights along the east side of Redwood Blvd generally located south of Golden Gate Place and north of Olive Avenue as described in Exhibit A and depicted in Exhibit A-1 to accommodate vehicular access from Redwood Blvd onto lots identified as APNs 143-011-06 and 143-011-05; and

WHEREAS, California Streets and Highways Code Section 8300 *et seq.* allows interested parties to request that a legislative body vacate streets and highways; and

WHEREAS, California Government Code Section 65402 requires that the Planning Commission review and provide a report to the City Council regarding a proposed vacation as to its conformity with the General Plan; and

WHEREAS, the City also received applications for a Zoning Map Amendment (P2017-056), Master Plan (P2017-057), Precise Development Plan (P2017-058), and Design Review (P2017-060) to permit the Project associated with the proposed vacation; 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 approve the Zoning Map Amendment (Rezone), Master Plan, Precise Development Plan, and Design Review to permit the Project; and

WHEREAS, public notices describing the Planning Commission's public hearing on the Vacation of a Relinquishment of Abutter's Rights and the Project's other associated development entitlements were sent to all affected property owners within 1,000-feet of the boundaries of the project site, all Atherton Ranch neighborhood residents, all public agencies potentially serving the Project or having some oversight of the Project's construction, the Federated Indians of the Graton

Rancheria 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 September 7, 2018; and

WHEREAS, the Planning Commission held a public hearing on September 17, 2018, to consider and receive public testimony on the Vacation of a Relinquishment of Abutter's Rights; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby resolves and finds 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 of the Vacation of a Relinquishment of Abutter's Rights includes, but is not limited to: (1) the Initial Study/Mitigated Negative Declaration and the appendices and technical reports cited in and/or relied upon in preparing the Initial Study/Mitigated Negative Declaration, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Initial Study/Mitigated Negative Declaration, the proposed Vacation of a Relinquishment of Abutter's Rights, and the Project's other 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) all designs, plans, studies, data and correspondence submitted to the City in connection with the Initial Study/Mitigated Negative Declaration, the proposed Vacation of a Relinquishment of Abutter's Rights, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Initial Study/Mitigated Negative Declaration, the Vacation of a Relinquishment of Abutter's Rights, the Project, and the Project's associated development entitlement requests (7) 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**

#### **Vacation of A Relinquishment of Abutter's Rights**

Government Code Section 65402 requires the Planning Commission to review and provide a report to the City Council regarding whether the proposed vacation of a relinquishment of abutter's rights



for conformity with the General Plan. Based on the facts set forth in the Record the Planning Commission finds and reports to the City Council the following:

1. The project site is designated Commercial/Industrial (CI) on the General Plan Land Use Map (Map LU 1) and access to Redwood Blvd. is necessary for adequate circulation and emergency vehicle access to the site for the Project; and
2. There are no General Plan policies directly or indirectly prohibiting access from an arterial street to a site designated for commercial uses; and
3. The City of Novato Public Works Engineering Division did not identify any safety hazards, undesirable elements, or improvement deficiencies that would prevent the placement of an access way(s) from Redwood Blvd. onto the project site; and
4. The City of Novato Public Works Engineering Division has the ability to control access onto Redwood Blvd through the encroachment permit application and approval process; and
5. The Project, subject to the Conditions of Approval set forth below, is consistent with the General Plan.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission finds and reports to the City Council that the proposed Vacation of the Relinquishment of Abutter's Rights is consistent with the General Plan, subject to the Conditions of Approval noted below:

#### **Section 4. Indemnification 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 special 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 – Vacation of a Relinquishment of Abutter’s Rights Legal Description  
Exhibit A-1 - Map Exhibit

Ref: P2017-055

DRAFT

## Attachment 3 - Exhibit A

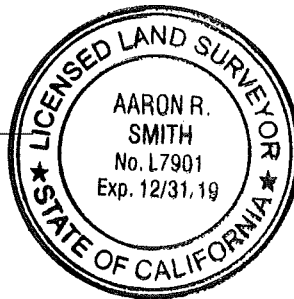
The area of vacation for a portion of the relinquishment described in this description is a portion of the same as that Relinquishment of Abutters Rights as described in that deed recorded in book 491 of Official Records, page 81, 931 of Official Records, page 433, and 480 of Official Records, page 132, Marin County Records and as it crosses those lands of Dairymen's Milling Co., a corporation, and ROIC California, LLC, a Delaware limited liability company and being more particularly described as follows.

Being the westerly line of Lot 1 and Lot 2 as shown on that certain map titled "Garden Place, Map of the Town of Novato, Marin County, California" filed for record in book 1 of Record Maps, page 52, Marin County Records and along the easterly line of Redwood Boulevard in the City of Novato, and said portion being the southerly 30.00 feet of said Lot (Dairymen's Milling Co.) and the northerly 12.00 feet of said Lot 2 (ROIC California).

The purpose of this description is to describe a portion of the same line that was described in the deeds that included relinquishment of abutters rights in 491 OR 81, 931 OR 433 and 480 OR 132, Marin County Records and to describe the request that the City of Novato vacate a portion of those rights that were relinquished in the above mentioned deeds.

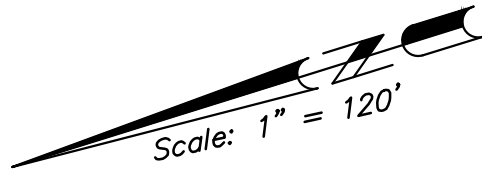
Affecting Assessor's Parcel Number's 143-011-06 and 143-011-05

Prepared by: *Aaron R. Smith*  
Aaron R. Smith, PLS 7901  
My license expires on 12/31/2019



Date: 8/30/18

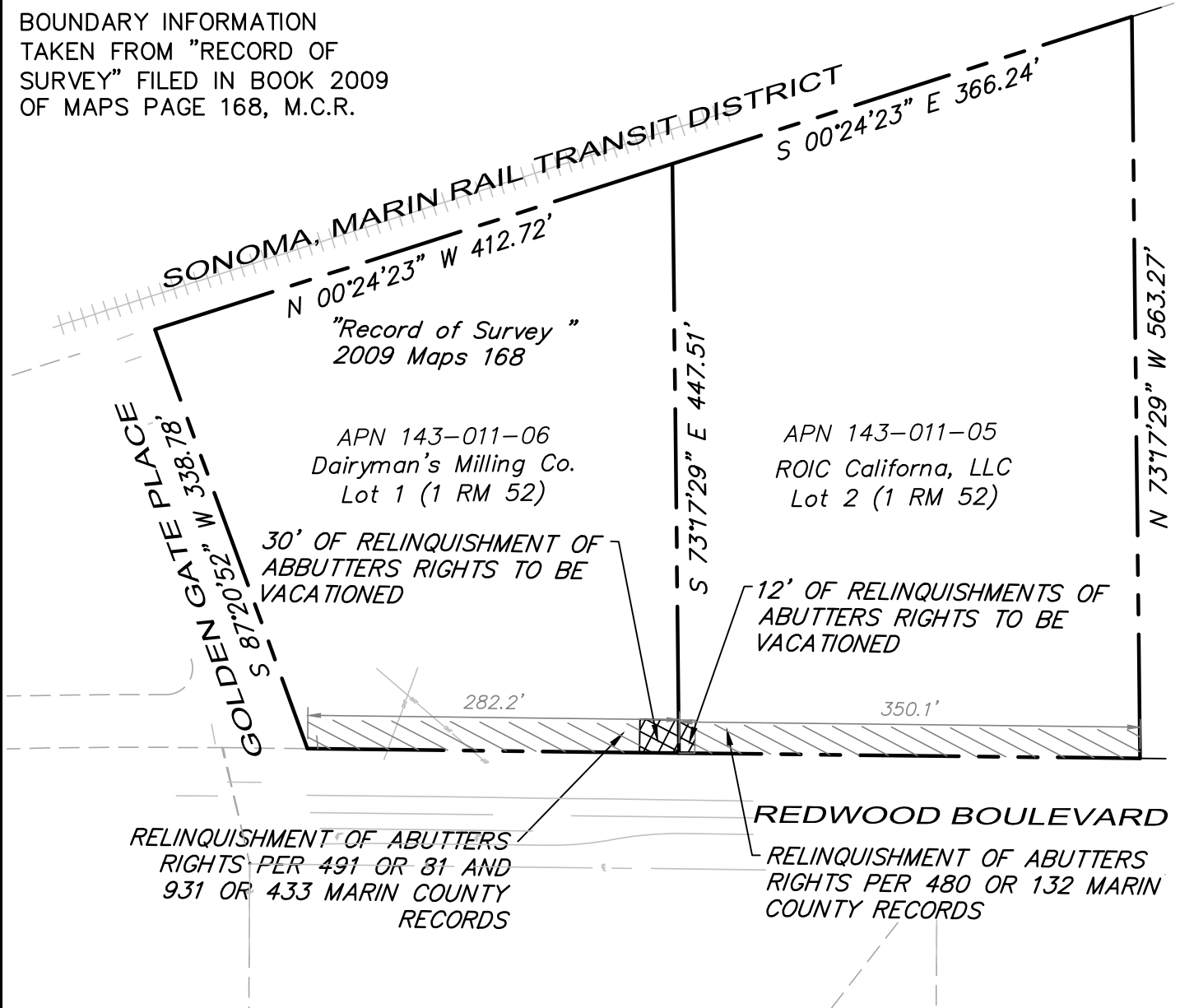
# Exhibit A-1



 AREA OF RELINQUISHMENT OF ABUTTERS RIGHTS TO BE VACATIONED

 RELINQUISHMENT OF ABUTTERS RIGHTS

BOUNDARY INFORMATION  
TAKEN FROM "RECORD OF  
SURVEY" FILED IN BOOK 2009  
OF MAPS PAGE 168, M.C.R.



## Vacation of the Relinquishment of Abutters Rights

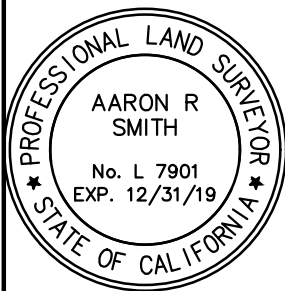
August 31, 2018

Date

Aaron R. Smith, PLS 7901  
my license expires 12/31/19



adobe associates, inc.  
civil engineering | land surveying | wastewater  
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401  
P (707) 541-2300; F (707) 541-2301



## Agenda Item 2 - Attachment 4

### Brett Walker

---

**From:** Elizabeth Dippel <edippel@sonomamarintrain.org>  
**Sent:** Tuesday, August 21, 2018 3:35 PM  
**To:** Brett Walker  
**Cc:** Laura Giraud; Bill Gamlen  
**Subject:** RE: City of Novato CEQA Notice of Intent to Adopt a Mitigated Negative Declaration; Residence Inn - Novato

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Afternoon Brett,

SMART would like to offer the following comment on the Residence Inn Project:

1. Storm water discharge onto SMART's Right-Of-Way will not be permissible

Thanks,

**Elizabeth (Libby) Dippel** | Assistant Planner | Direct (707) 794-3079 | Fax (707) 794-3037 | 5401 Old Redwood Hwy, Suite 200, Petaluma, CA 94954 | [edippel@sonomamarintrain.org](mailto:edippel@sonomamarintrain.org) | [www.SonomaMarinTrain.org](http://www.SonomaMarinTrain.org) | [www.BeTrackSMART.org](http://www.BeTrackSMART.org)



---

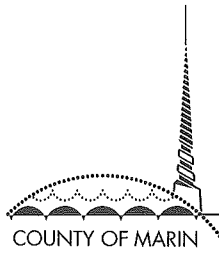
**From:** Brett Walker [mailto:bwalker@novato.org]  
**Sent:** Wednesday, August 15, 2018 3:56 PM  
**To:** Paul Wade <wade@coastlandcivil.com>; 'tkehoe@nmwd.com' <tkehoe@nmwd.com>; 'billn@novatosan.com' <billn@novatosan.com>; 'Erik Brown' <erikb@novatosan.com>; 'dnicholson@marincounty.org' <dnicholson@marincounty.org>; 'rdowning@goldengate.org' <rdowning@goldengate.org>; Bill Gamlen <BGamlen@sonomamarintrain.org>; Buffy McQuillen <BMcQuillen@gratonrancheria.com>; xavier.fernandez@waterboards.ca.gov; timothy.dodson@wildlife.ca.gov; ljessell@novatofire.org; Denise Wade <dwade@novatofire.org>; Elizabeth Dippel <edippel@sonomamarintrain.org>  
**Subject:** City of Novato CEQA Notice of Intent to Adopt a Mitigated Negative Declaration; Residence Inn - Novato

Good Afternoon:

The City of Novato has posted a CEQA Notice of Intent to adopt a Mitigated Negative Declaration for the Residence Inn project, available here: <http://novato.org/home/showdocument?id=26225>. The IS/MND is available at the following link: <http://novato.org/home/showdocument?id=26227>, and the IS/MND appendices are available here: <http://cms6ftp.visioninternet.com/novato/agendas/pdfstaffreports/Res%20Inn%20IS%20MND%20Appendices.pdf>. Additional project information is available here: [www.novato.org/residenceinn](http://www.novato.org/residenceinn).

Please let me know if you have any questions or comments.

Sincerely,



# DEPARTMENT OF PUBLIC WORKS

Quality, Excellence, Innovation

Raul M. Rojas  
DIRECTOR

August 20, 2018

Administration  
PO Box 4186  
San Rafael, CA 94913-4186  
415 473 6528 T  
415 473 3799 F  
415 473 3232 TTY  
CRS Dial 711  
[www.marincounty.org/pw](http://www.marincounty.org/pw)

City of Novato Planning  
Attn: Brett Walker  
922 Machin Ave.  
Novato, CA 94945

RE: Planning Referral; Residence Inn  
7546 Redwood Blvd, Novato  
APN: 143-011-06

Mr. Walker:

On behalf of Marin County Flood Control & Water Conservation District (District) I have reviewed the proximity for the subject project to the adjacent District maintained section of Rush Creek. The following are my comments.

Providing that there are no changes to the existing stormwater drainage that would result in additional runoff flow to Rush Creek, the District has no need for further review of the project plans. However, if plans include direct or indirect stormwater drainage flow to Rush Creek, then the District shall require review of the drainage plan accompanied with associated hydrology/hydraulics plans/calculations.

Thank you for the opportunity to allow the District to review and comment on this proposed development. Please feel free to contact me with any questions at 415-473-7031 or email at [jdixon@marincounty.org](mailto:jdixon@marincounty.org).

Respectfully,

Joanna Dixon, P.E.  
Flood Control Zone-1 Engineer

Cc: Roger Leventhal  
Liz Lewis  
Tony Williams

Accounting

Airport

Building Maintenance

Capital Projects

Certified Unified Program  
Agency (CUPA)

Communications  
Maintenance

County Garage

Disability Access

Engineering & Survey

Flood Control &  
Water Resources

Land Development

Purchasing

Real Estate

Reprographic Services

Road Maintenance

Stormwater Program

Transportation &  
Traffic Operations

Waste Management



September 4, 2018

999 Rush Creek Place  
P.O. Box 146  
Novato, CA 94948-0146

**PHONE**  
415-897-4133

**EMAIL**  
[info@nmwd.com](mailto:info@nmwd.com)

**WEB**  
[www.nmwd.com](http://www.nmwd.com)

Community Development Department  
CITY OF NOVATO  
Attn: Brett Walker, Senior Planner  
922 Machin Avenue  
Novato, CA 94945

Re: Residence Inn Hotel  
Draft Initial Study/Mitigated Negative Declaration  
APN 143-011-06  
7546 Redwood Blvd., Novato

Ladies and Gentlemen:

On March 20, 2018, the North Marin Water District (District) provided comment to the City of Novato (City) Community Development Department regarding this project. Specifically, the District indicated its concern related to the current insufficient drainage capacity within Rush Creek (adjacent to District offices/facilities). The proposed Residence Inn project has the potential to increase storm runoff to Rush Creek.

The recently published Draft Initial Study/Mitigated Negative Declaration was reviewed by District Staff. Section 9 of the Environmental Checklist purports that the project will have "Less than Significant Impact" as regards alteration of existing drainage patterns or contribution of runoff water that would exceed the capacity of existing drainage systems.

Unless all project runoff was to be detained onsite, any additional runoff stemming from the project would only further exacerbate current flooding potential in Rush Creek. The District understands the City is in consultation with Marin County Flood Control and Water Conservation District, California Department of Fish and Wildlife, and others regarding downstream improvements to Rush Creek. Until such improvements are effected, and capacity in Rush Creek improved, the proposed project has the potential to negatively impact District facilities.

Should you have any questions regarding this matter, please contact our Engineering Services Representative at (415) 761-8935.

Sincerely,  
  
Rocky Vogler  
Chief Engineer

RV: ls  
r:\jobapp\referrals\apn\_143\143-011-06\response 9.2018.doc



## **Brett Walker**

---

**From:** Robert Atkinson <ratkinso1@yahoo.com>  
**Sent:** Tuesday, August 21, 2018 9:35 AM  
**To:** Brett Walker  
**Cc:** Bob Brown; Steve Marshall  
**Subject:** Residence Inn - Novato - 7456 Redwood Blvd.

Hello Brett,

Pursuant to our discussion this morning, I am in support of the proposed Residence Inn at this location. This area of Novato appears dilapidated and is sorely in need of redevelopment. With easy access to Highway 101 and the adjacent retail business, this location is ideally suited for a family Hotel.

Having had friends and family visit me in Novato over the last decade, it has always been challenging finding rooms in an quality hotel in Novato and the proposed Residence Inn will help fill that void and keep the Hotel tax dollars in Novato.

Thanks and I look forward to meeting you in person.

Robert Atkinson  
Cell # 415-235-5240

## **Brett Walker**

---

**From:** Melodie Baird <melodie.l.baird@gmail.com>  
**Sent:** Wednesday, August 22, 2018 7:21 PM  
**To:** Brett Walker  
**Subject:** Residence Inn - Novato

Brett Walker, Senior Planner  
Dear Brett:

I would like the Planning Commission to know that I am very impressed with the plans submitted for this hotel and I fully support its development. I believe it would add significant benefits to Novato, including improved services for out of town guests in a convenient and easily accessed location, improved retail opportunities and improved visual appeal in what is now a blighted area.

I attended meetings with this developer and I appreciated his knowledge of the industry, attention to detail and his willingness to work with citizens to be sure we will be happy with this project. It is a perfect site for a hotel and I believe this will be an attractive and successful addition to the North Redwood Corridor.

Melodie Baird  
246 Butterfield Drive  
Novato, CA 94945

## Brett Walker

---

**From:** Clay Freeberg <clay.freeberg@comcast.net>  
**Sent:** Friday, August 17, 2018 1:55 PM  
**To:** Brett Walker  
**Subject:** Re: Residence Inn -- Mit Neg Dec

Brett: Thanks. I hope this hotel gets approved.

Clay Freeberg  
Sent from my iPhone

> On Aug 17, 2018, at 8:04 AM, Brett Walker <bwalker@novato.org> wrote:

>

> Good Morning:

>

> Please try this link to access the project webpage: <http://novato.org/government/community-development/planning-division/planning-projects/residence-inn-novato>. The CEQA environmental document is also available at this link: <http://novato.org/home/showdocument?id=26227>.

>

> Please let me know if you have trouble accessing the project webpage or the CEQA Mitigated Negative Declaration from the links above. The document file size is quite large (over 5 MB), so it may take some time to open.

>

> If you would like to review a paper copy of the document, there is a public counter copy available to review at the City Administrative Office, 922 Machin Ave, and also at the Novato Branch of the Marin County Library, 1720 Novato Blvd.

>

> Sincerely,

>

> Brett Walker, AICP

> Senior Planner

>

> City of Novato

> Community Development Department

> 922 Machin Avenue

> Novato, CA 94945

>

> Main: (415)899-8989

> Direct: (415)493-4711

> Fax: (415)899-8216

>

> [www.novato.org](http://www.novato.org)

>

> City offices are closed every other Friday.

>

> -----Original Message-----

> From: Clay Freeberg [mailto:[clay.freeberg@comcast.net](mailto:clay.freeberg@comcast.net)]

> Sent: Thursday, August 16, 2018 11:39 PM

> To: Brett Walker <bwalker@novato.org>

> Subject: Residence Inn -- Mit Neg Dec

>

## Brett Walker

---

**From:** tanyagrasser@gmail.com on behalf of Tanya Grasser <tanyagrasser@comcast.net>  
**Sent:** Sunday, July 16, 2017 7:38 PM  
**To:** Denise Athas; Josh Fryday; Pam Drew; pecklund@novato.org; Eric Lucan; Regan Candelario; Bob Brown; Hans Grunt; Brett Walker  
**Subject:** concerns about two proposed hotels in Novato

Dear Novato Leaders & Influencers:

I have concerns about the 2 hotels being proposed for Redwood Blvd. I am out of town frequently this month, so I'm not able to attend meetings in person, which is why I am doing it through this email.

Regarding the proposed Wood Hollow Hotel at 7701 Redwood Blvd., I am concerned about:

- \* the height limit increase from 35 ft. to 43 ft.
- \* the wetland setback reduction from 50 ft. to 20 ft.

Allowing these changes, especially to an undeveloped piece of land, opens the door for other developers to do the same. We need to save our wetlands and our hillsides. We will never get them back.

Regarding the proposed Residence Inn at 7547 Redwood Blvd., I am concerned about the overall plan for the entire area between Trader Joe's and San Marin Drive. Do we really want it to become "motel/hotel row"? Motels and hotels bring some money to the city, but they don't offer much else to the people who live here. We really need to think more about activities/resources for Novato residents, especially our youth who currently have very little to do in town.

Please think about the big picture. Please think about Novato's residents. Please think about the environment (especially with the Wood Hollow project). Please think about fixing up what we already have, as well as in-fill projects, before projects on currently undeveloped land. I'm open to development in Novato, but want it to be the right thing.

Thank you for your time,

Tanya Grasser  
67 Santa Maria Drive  
Novato, CA 94947

## Brett Walker

---

**From:** Reynold Martinez <reynold@reynoldmartinez.com>  
**Sent:** Wednesday, July 12, 2017 4:11 PM  
**To:** Brett Walker; dacape@diversifiedgrp.com  
**Cc:** Steve Marshall  
**Subject:** Residence Inn Development

I am a neighbor to the proposed Residence Inn development (I live at 124 Pinheiro Circle.) I have reviewed the drawings posted and think not only is that a good use of the property, but that the concept looks like a nice addition to the neighborhood.

Although I am not able to be at the meeting this evening, but would like to express the need for a traffic light, or some other control at the intersection of Ranch and Redwood. I am on the board at Atherton Ranch, the housing development across from the Dairyman's property, and can say that this is a recurring concern with my neighbors.

I've copied Steve on this e-mail because I know he has heard about the concerns already as part of the work on the Prado property.

Thanks, and have a good meeting tonight.

--

Reynold M. Martinez  
[reynold@reynoldmartinez.com](mailto:reynold@reynoldmartinez.com)

## Brett Walker

---

**From:** julia ross <julia@juliartworks.com>  
**Sent:** Sunday, September 09, 2018 7:27 PM  
**To:** Brett Walker  
**Subject:** Questions Residence Inn

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Brett,

As a neighbor close to this site (unable to get to the public hearing/meeting) I have a few questions:

- 1) In layman's terms what does "A vacation of a relinquishment of abutter's rights is requested for the proposed Redwood Blvd access."?
- 2) why are you proposing a separate retail space when we have plenty of retail space that sits empty on Grant Ave; old Pini Hardware and the Citibank buildings for example. I know you want the freeway access and visibility but we, the locals who live and shop in Novato, would appreciate those buildings get filled with new businesses first! before you add more space.
- 3) is there any foresight into making sure that the people who come to Novato from the airport can actually get to the Residence Inn using public transport? It might be nice to connect with the Marin Airporter and see if they'll create a stop in Northern Novato for just this reason.
- 4) will this be a Leeds project? Solar panels? Grey water for watering the trees? And are you hiring local workers?
- 5) I'd be happy with smaller retail building (if it comes to that) but please maintain the original amount of trees. They are important as they clean the air, especially catching the exhaust and grime coming off the freeway.
- 6) what are you doing in order to be sure that the creek that runs by the freeway stays safe as a wildlife zone? I'd hate to see a shady construction company use this fragile creek as a dumping site.
- 7) have you given any thought to a local artist sculpture piece? Local art on display in the retail area?
- 8) And finally. It would be nice to give the area alongside the creek/freeway a few yards of trees and plants and make this area into a bike path, garden or walking area for all to enjoy. Plus it would shade the East side of the building and keep it cooler.

I think that's it from me.

Thank you,

Julia Ross, Novato resident

## Brett Walker

---

**From:** Hans Grunt  
**Sent:** Monday, July 17, 2017 12:02 PM  
**To:** Brett Walker  
**Subject:** FW: Feed Store Property Redwood Blvd

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hans Grunt  
Senior Planner  
(415) 899-8940

-----Original Message-----

From: Toni Shroyer [mailto:tonishroyer@hotmail.com]  
Sent: Monday, July 17, 2017 11:40 AM  
To: Hans Grunt <hgrunt@novato.org>  
Subject: Feed Store Property Redwood Blvd

Hi Hans,

I have been working nonstop so I can pay all the taxes imposed upon us so it is hard to keep up with everything.

Question: What is the status with the 103 room hotel on the Dairyman's property and when is the next city meeting on it?

Where would an alternative location for the feed store go? Does Novato want to send that business to Petaluma ?

Had the city considered cleaning up the crime at the former Travel Lodge hotel before building another?

Thanks Hans

Toni

Toni Shroyer  
Realtor, CalBre#01876201  
Bradley Real Estate  
415-640-2754  
www.tonishroyer.com  
Chairman's Club  
President's Club

# T|L|G Thomas Law Group

TINA A. THOMAS  
AMY R. HIGUERA  
CHRISTOPHER J. BUTCHER  
OLIVIA R. FILBRANDT

455 CAPITOL MALL, SUITE 801 | ONE KAISER PLAZA, SUITE 875  
SACRAMENTO, CA 95814 | OAKLAND, CA 94612

Telephone: (916) 287-9292 Facsimile: (916) 737-5858  
www.thomaslaw.com

NICHOLAS S. AVDIS  
LESLIE Z. WALKER  
Of Counsel

## SENT VIA ELECTRONIC AND U.S. MAIL

September 4, 2018

Brett Walker, Senior Planner  
Community Development Department  
City of Novato  
City Administrative Offices  
922 Machin Ave.  
Novato, CA 94945

### **RE: Residence Inn – Novato, 7546 Redwood Boulevard, Novato, CA 94945**

Dear Mr. Walker:

On behalf of our client, ROIC California, LLC (ROIC), we submit this letter in response to the mitigated negative declaration (MND) prepared by the City of Novato for the Residence Inn – Novato project (Project). The analysis of traffic impacts in the MND is inadequate. As detailed below, both the preferred *and* alternative site plan for the Project will result in potentially significant traffic impacts. Unless the MND is updated and recirculated to properly disclose and analyze existing and reasonably foreseeable cumulative traffic conditions surrounding the Project, the MND cannot be relied on by the City to approve the Project.

#### **I. The Project as proposed impermissibly relies on the use of ROIC's private property without requiring the Project applicant to reach agreement regarding shared use.**

As currently proposed, the Project would use ROIC's adjacent property to provide access to Redwood Boulevard. The total proposed encroachment onto ROIC's property appears to be more than half an acre. Specifically, the Project materials clearly delineate the property line and illustrate that approximately half of the proposed two-way traffic lane is proposed to be developed on ROIC's property. (MND Figure 4; Site Plan DR-1.1; Site Plan DR-1.2; MND Appendices, p. 163.)

This design is in blatant disregard for principles of property rights. (*Nollan v. California Coastal Commission*, (1987) 483 U.S. 825, 831 [“the right to exclude others is one of the most essential sticks in the bundle of rights that are commonly characterized as property”].) Such an intrusion requires a written agreement, good faith, or showing of necessity. (*Petersen v. Friedman* (1958) 162 Cal.App.2d 245 [express reservation created easement]; *Elliott v. McCombs* (1941) 17 Cal.2d 23, 30 [must be in writing]; *Bennett v. Lew* (1984) 151 Cal.App.3d 1177 [doctrine of



unclean hands applies]; *Lichty v. Sickels* (1983) 149 Cal.App.3d 696, 699 [California courts follow easement only by “strict” necessity]; *Daywalt v. Walker* (1963) 217 Cal.App.2d 669, 672 [easement by necessity is only where land ownership is divided to create a landlocked parcel]; see also Novato Code of Ordinances, § 19.40.040.)

While ROIC has been willing to negotiate with Project proponents for access, the negotiations have stalled. As such, the proposed Project has no right to access on or through ROIC’s adjacent property. It would be improper for the City to approve the Project without requiring the Project proponent to reach an agreement with ROIC for use of its adjacent property prior to issuance of building or grading permits.

**II. The mitigated negative declaration is inadequate because it fails to disclose and analyze existing and reasonably foreseeable cumulative traffic conditions.**

CEQA requires that “the public and its responsible officials [be informed] of the environmental consequences of their decision before they are made.” (CEQA Guidelines, § 15201.) Per CEQA, a public agency must prepare an environmental impact report whenever substantial evidence supports a fair argument that a proposed project “may have a significant effect on the environment.” (*Id.*, § 15201.) “May” means a reasonable possibility. (*Sundstrom v. County of Mendocino* (1988) 202 Cal.App.3d 296; *No Oil, Inc. v. Los Angeles* (1974) 13 Cal.3d. 68; Pub. Resources Code, § 21151, subd. (a).)

An MND is only appropriate where “there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment.” (*Friends of College of San Mateo Gardens v. San Mateo County Community College* (2016) 1 Cal.5th 937; *Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 704-705; CEQA Guidelines, § 15063, subd. (b)(2).) “A project may proceed without further environmental review only if the agency issues a negative declaration identifying the project’s environmental effects and explaining why they are not significant.” (*Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086 [citation]; *Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 722 [agency must also detail revisions to a project plan mitigating the environmental effect].)

The MND’s traffic impact analysis improperly ignores *both* the existing use of ROIC’s adjacent property as a parking lot with existing access off of Redwood Boulevard, as well as reasonably foreseeable future development of ROIC’s adjacent site, with continued use of the existing access off of Redwood Boulevard. Without consideration of the existing setting or reasonably foreseeable future development, the MND does not include a full picture of the proposed Residence Inn Project’s potential traffic impacts.

- a. *CEQA requires a correct description of the existing setting and reasonably foreseeable future development to adequately analyze the project-specific and cumulative traffic impacts.*

Under CEQA, an environmental analysis must begin with the environmental conditions “in the vicinity of the project.” (CEQA Guidelines, § 15125, subd. (a).) Generally, this is the actual,

physical conditions as they exist before any project approval. (*Ibid.*; *Poet, LLC v. State Air Resources Board* (2017) 12 Cal.App.5th 52.)

The MND includes figures illustrating that the adjacent ROIC property has an existing access road off of Redwood Boulevard. (Site Plan DR-1.2; MND Appendices, p. 163.) However, the traffic analysis fails to mention this existing access road or current or historical use of the existing access road. As a result, the traffic analysis does not evaluate potential traffic impacts associated with use of this existing access road when combined with the impacts of a new access point proposed for the Project.

Further, cumulative impacts occur “where two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” (CEQA Guidelines, § 15355.) The cumulative impact from several projects is “the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and *reasonable foreseeable probable future projects*.” (*Ibid.*, emphasis added.)

Here, the MND and associated project materials demonstrate that future development is reasonably foreseeable on the adjacent property. (See, e.g., MND Figure 4; MND Appendices, p. 163 [illustrating development on the adjacent property].) However, the traffic analysis neither discloses nor analyzes reasonably foreseeable future development of the adjacent property or continued use of the existing access road by such future development under cumulative conditions. Without such disclosures or analysis, the City is not properly informed of the environmental impacts of the Project, as required by CEQA.

*b. ROIC has a current vested right in its access road at the present location, which the City cannot ignore.*

If an easement is acquired in a given location, it becomes fixed by use, and its location may not be substantially changed. (*Hannah v. Pogue* (1944) 23 Cal.2d 849.) So long as an easement “is enjoyed it shall remain substantially the same as it was at the time the right accrued, entirely regardless of the question as to the relative benefit and damage that would ensue to the parties by reason of a change in the mode and manner of its enjoyment.” (*Whalen v. Ruiz* (1953) 40 Cal.2d 294, 302.) This adherence to the original terms of the easement also applies to the duration of the deed. (Civ. Code, § 806; *Hirshfield v. Schwartz* (2001) 91 Cal.App.4th 749.)

Originally outlined in a 1930 property conveyance to the State, the existing access road has been in use since at least 1952, as demonstrated in the Project proposal. (MND Appendices, p. 622; County of Marin Assessor’s Map Book 143, p. 1.) Here, the 1930 deed reserves the right to the access road precisely in its present location. (County of Marin Assessor’s Map Book 143, p. 1.) The reservation is for all “successors and assigns” and contains no language of duration. (County of Marin Assessor’s Map Book 143, p. 1.) Without the acquiescence and consent of both parties, a party may not change the grant once exercised in a fixed and definite course. (*Winslow v. Vallejo* (1906) 148 Cal. 723, 726 [city cannot change the easement terms after nearly ten years of use].)



The right to the access road was acquired by ROIC in purchasing the property. The access road has been in use in its current location for over 65 years and continues to be used. As such, the City's analysis of traffic impacts for the Project must take into consideration the existing and continued use of the established access road.

*c. The deficiencies identified in the MND's analysis cannot be resolved by approving an alternative site plan.*

We understand that an alternative site plan has been proposed that would eliminate the shared access with ROIC's property, and instead provide an access point for the hotel entirely on its property. This alternative would reduce the number of parking spaces for the Residence Inn project below the number required by the City's Code. (See Alternative Site Plan showing 153 parking spaces are required, but only 147 are provided). This inconsistency with the City's Code requirements is not addressed in the City's environmental analysis.

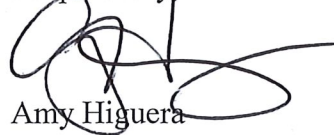
Nor does the City address the potential traffic impacts of continued use of ROIC's access as it exists, or with reasonably foreseeable future development, if two separate access points are provided on Redwood Boulevard. As discussed above, this failure to consider the cumulative setting violates CEQA. The City must consider whether having two access roads onto Redwood Boulevard will result in a significant traffic impact, either under the existing baseline scenario with a parking lot on the adjoining site, or cumulative scenario with a project developed on the adjoining site. Again, without this analysis, the City is not properly informed of the environmental impacts of the Project as proposed or under the alternative site plan, as required by CEQA.

\* \* \*

We urge the City not to proceed in a manner that violates either CEQA or ROIC property rights. ROIC requests that the City not set the Project for a final hearing until the Project applicant and ROIC have reached a mutually agreeable and equitable solution to address the Project's access issues.

ROIC requests that the City provide a written response to this comment letter (a) confirming that a hearing will not be set until the Project's access issues are resolved and (b) addressing the inadequacies in the MND's traffic analysis discussed in this letter. Should the City be interested in meeting with ROIC to discuss these issues further, ROIC is willing to participate in such further discussions. ROIC is optimistic that the existing issues can be resolved in a legal and equitable manner.

Respectfully,



Amy Higuera

cc (via electronic mail only): Richard Schoebel, ROIC  
Stuart Tanz, ROIC