



# Planning Commission Meeting

Location: Novato City Hall, 901 Sherman Avenue

November 5, 2018

THE CITY OF  
NOVATO  
CALIFORNIA

## Minutes

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Mayor  
Josh Fryday  
Mayor Pro Tem  
Pam Drew  
Councilmembers  
Denise Athas  
Pat Eklund  
Eric Lucan

City Manager  
Regan M. Candelario

**Present:** Justin Derby, Vice Chair  
Dan Dawson  
David Gabriel  
Reva Rao  
Peter Tiernan  
Thomas Weldon  
Susan Wernick

**Absent:** None

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

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

#### APPROVAL OF FINAL AGENDA:

Motion/Second: PT/DD to approve final agenda. Motion passed 7-0 (Ayes: Tiernan, Wernick, Gabriel, Rao, Weldon, Dawson, Derby)

**PUBLIC COMMENT:** None

**CONSENT CALENDAR:** None

**CONTINUED ITEMS:** None

#### NEW ITEMS:

### **1. INTERSECTION OF SAN MARIN DR., SUTRO AVE., & NOVATO BLVD. PROPOSED NEW CAPITAL IMPROVEMENT PROJECT GENERAL PLAN CONSISTENCY REPORT**

Consistent with California Government Code Sections 65401 and 65402(a), consider providing a report to the City Council regarding whether a proposed new Capital Improvement Project to improve the intersection of Novato Blvd. and San Marin Drive/Sutro Avenue is consistent with the Novato General Plan.

Deputy Public Works Director Chris Blunk introduced Ashley Leonard, a Girl Scout Gold Award candidate from San Marin H.S. and is involved in the S.T.E.M. education program. She picked this intersection project as part of her Gold Award project, which must be sustainable and makes an impact in the community. She volunteered and worked on the document for the project for the last 7 months.

Deputy Director Blunk presented the staff report on the General Plan Consistency to improve the intersection of Novato Blvd and San Marin Drive/Sutro Avenue.

Commissioner Tiernan inquired about the location of improvements.

Deputy Director Blunk discussed eight recommendations from the traffic engineer.

Commissioner Tiernan had questions about the west end of San Marin – half of the improvements that were recommended are done?

Deputy Director Blunk affirmed that is correct.

Commissioner Tiernan asked if there will be rumble strips to slow people down when approaching the intersection. I would like to see something there to alert people.

Deputy Director Blunk noted that one recommendation was an edge line striping pattern that naturally makes drivers want to slow down. This improvement is probably two years out when repaving is done.

Commissioner Wernick inquired as to whether the School District has notified the City in the past about any concerns with the intersection.

Deputy Director Blunk replied that some conversations about improvements have been held with the School District and if the project moves forward, we want the school board to participate.

Commissioner Wernick noted she does live in the area and avoids that intersection when school gets out. The intersection at San Carlos/San Marin would be impacted – can the City take a look at that one as well? And the sidewalk on Novato Boulevard between San Miguel/San Marin has gaps.

Deputy Director Blunk replied that it makes sense to look at the entire area. It is most cost effective to look at them all at one time.

Commissioner Gabriel inquired which would be most cost-effective, a roundabout, signal, or something else.

Deputy Director Blunk noted that if sized appropriately, a roundabout is most likely the least costly. The footprint of signal is smaller, so it could be a tradeoff. Will look at the cost/budget.

Commissioner Rao asked who was engaged and what feedback was received.

Deputy Director Blunk noted that people who have been engaged are families and students through Ashley's project. Ashley presented it to the BPAC. As presented on the PC Agenda, it has generated calls and emails. Some people were not supportive of a signalized intersection, some liked the roundabout, and some did not want anything changed. General theme was that the City should do something. Public Works will have outreach to the community and come back with a compromise solution.

Commissioner Weldon inquired as to the collision rate for signal versus the existing intersection.

Deputy Director Blunk stated that it is less than statewide average for similar intersections. We do have a high volume of pedestrians. Need more data to provide potential incident rates. There were no pedestrian collisions; one bike vs. a car.

Commissioner Dawson also noted that there is a dilapidated path to Stafford Lake that should be looked at.

The public comment period was opened.

Debbie Butler, NUSD Board Member, encouraged Commissioners to approve the resolution. The project is well-needed in this area for the safety of students. Do something proactive rather than reactive.

The public comment period was closed and brought back to the Commissioners.

Commissioner Tiernan noted this resolution moves the project to the City Council, we are not making a recommendation on the project.

Deputy Director Blunk agreed the resolution is finding the project consistent with the General Plan and the City would like to move forward at a later date with a CIP Project.

Commissioner Tiernan expressed concern that a signal would be a huge mistake here.

M/s: Dawson/Tiernan to adopt a resolution reporting to the City Council that a proposed new Capital Improvement Project to improve the intersection of Novato Blvd. and San Marin Drive/Sutro Avenue is consistent with the Novato General Plan. Motion passed 7-0-0-0 (Ayes: Dawson, Tiernan, Gabriel, Rao, Weldon, Wernick, and Derby; Nays: None; Recused: None; Absent: None)

Commissioner Wernick thanked Ashley Leonard for her civic involvement; noted she lives in the neighborhood and the safety of our students is of utmost importance. She also agrees with Commissioner Tiernan and would not like to see a signal at this intersection.

Vice Chair Derby congratulated Ashley Leonard.

**2. PUBLIC HEARING AND POSSIBLE ACTION TO ADOPT A RESOLUTION FOR THE FIRST AND GRANT MIXED USE DEVELOPMENT  
P2017-092: USE PERMIT, DESIGN REVIEW, VESTING TENTATIVE SUBDIVISION MAP  
CEQA: CATEGORICALLY EXEMPT - SECTION 15332, IN-FILL DEVELOPMENT  
APN: 141-282-04, -07; 1107 GRANT AVENUE**

Conduct a public hearing to consider and adopt a resolution: 1) granting a use permit, 2) approving the project design, and 3) approving a vesting tentative map to allow for the construction and operation of a three-story 80,343sf mixed-use building, to include 13,317sf of ground floor commercial space, 18,612sf of combined parking, refuse and mechanical area, and 32 one- and two-bedroom, residential units on the second and third stories.

Senior Planner Hans Grunt presented the staff report.

Dan MacDonald gave the development team presentation. They held meetings with neighbors and would like to propose some new conditions of approval to mitigate their concerns:

- supply labor for an 8 foot fence/gates at Industrial Way for the 4 homes behind the project
- plant new trees in the rear yards of the 4 home behind the project; owner choice of trees
- frosted glass windows at the stairwell windows facing south
- verify exterior lighting doesn't impact neighbors
- install 6 foot high privacy screening at 3<sup>rd</sup> floor unit balconies at west end of building

Jennifer Robinson, resident and part of the development team referenced the draft General Plan 2035:

- Novato Housing Element – affordable BMR units
- quick access to bus and future SMART station
- carefully designed architecture
- cornerstone building after 15 year vacancy
- renewed interest in west Grant Avenue
- inspire further investment
- asked the Commissioners to approve project

Commissioner Tiernan asked if affordable housing (6 units) is spread throughout building.

Ms. Robinson replied they are scattered around the project.

Commissioner Tiernan inquired as to the hours for delivery?

Mr. MacDonald stated delivery hours are 8 am to 12 pm.

Commissioner Tiernan asked if other projects have time restrictions.

Senior Planner Grunt and Planning Manager Marshall said they are not aware of any projects with restricted hours.

Commissioner Tiernan inquired if there are any green building components with the project.

Mr. Macdonald said they have to comply with CALGreen building code; not LEED but will have PV Panels; going into areas with public transportation; and continuous insulation on outside of building.

Commissioner Tiernan asked if PV Panels will be invisible.

Mr. Macdonald stated yes, they are flat on roof, not visible.

Senior Assistant City Attorney Nebb clarified that Hello Housing is the City's affordable housing monitoring agency and manage the resales and monitoring of the affordable rentals. Rental units shall be in compliance with the City's standard agreement and management plan. Hello Housing is not responsible for leasing the units, they will monitor the affordability in compliance with the City's program.

Commissioner Wernick stated that truck deliveries and FedEx will come at any time. Much larger trucks will come with pallets - Pini Hardware possibly had the same situation.

Commissioner Wernick My asked how many dumpsters can fit in the trash enclosure and whether a restaurant could have a separate dumpster.

Mr. Macdonald said it can fit five dumpsters, possibly 4 if larger. Yes, a separate dumpster for a restaurant.

Commissioner Wernick asked the Senior Assistant City Attorney if the units could be initially rented, but sold later. In the Housing Element, it states that we protect rental units so could these be converted to condos and will this be a problem?

Senior Assistant City Attorney Nebb stated you should discuss conversion to condos. Asking for dual track – both condos and apartments. Will need an affordable agreement change from apartment to condo. If a rental project, not required to have CC&R's; if for sale, will need. There are differences and conditions of approval are recommended reflecting this. The Commission may want to address this.

Mr. Macdonald said they are designed as condos, but may be apartments. Ownership may want to rent for 10 years.

Chris Hesson, representing the project owners, stated they will rent as apartments, different lease agreement with the tenant knowing the unit could be sold as a condominium. The individual retail spaces will be condos.

Commissioner Dawson inquired as to whether the commercial space will still be done as a leased space, when will CC&R's be created?

Senior Planner Grunt stated that CC&R's will be created with recordation of final map.

Senior Assistant City Attorney Nebb stated the affordable housing agreement will need to be changed if a for sale unit. Will ensure the conditions of approval state that.

Commissioner Weldon inquired if anyone thought about issuing parking permits, what it might look like. And, are there other areas with permits.

Deputy Director Blunk said that the City looked into a request for permit parking on Mirabella Avenue. Mirabella Avenue is narrower than the City standards. To formalize parking there, it would be less width than Novato Fire District standards. A couple of other neighborhoods, 3 or 4 – one by San Marin High School have permit parking - not as common here [Novato] though we do have standards.

Commissioner Derby asked how the project aligns with the draft General Plan update/downtown parking study.

Senior Planner Grunt replied there are policies in the draft General Plan that address mixed-use development in the downtown.

CDD Director Brown stated the City Council wanted staff to review the Downtown Plan/Parking Waiver Program. This project is operating under the current General Plan though City Council will look at the issue of parking waivers.

Commissioner Tiernan made a reference to an October review of parking.

Senior Planner Grunt noted that staff was hearing concerns about parking regarding the project and options were being explored by Public Works.

Deputy Director Blunk stated there is an ongoing conversation about downtown parking. Public Works has looked at other options in downtown. Are we using the right-of-way effectively? Could you stripe diagonal spaces on Front Street to add 17–20 more spaces in the same footprint and clarify one single lane that is narrower that would also slow traffic down. Could we also apply that around Grant Avenue, between 7<sup>th</sup> and Redwood, and have more effective use of ROW. Have authorized staff for outreach process and work with neighbors. Would engage public – Public Works won't show-up and stripe.

Commissioner Tiernan asked about 1st Street-Mirabella to Grant, no changes to this area, all spaces to remain?

Deputy Director Blunk replied yes, no changes on 1<sup>st</sup> between Mirabella & Grant.

Public comment period was opened.

Steve Gock: Resident at 4<sup>th</sup> & Park Avenue. Impacted by the Hacienda & Rustic Bakery. All the employees need a place to park. Why can't they do underground parking – Just pushing problem around. Why do they have rules and throw them out the door.

Jeanne Santangelo: Wanted to add she lives downtown and loves it. Streets are closed sometimes and Industrial Way closed down sometimes and only way to get out – a lot of people live there in apartments. You were talking about General Plan and noise - HVAC has no baffling and very loud – can hear with windows closed. If putting infill and look at the noise code it could be outdated, look at other communities. Have to be able to co-exist.

John Williams: Stated it is exciting to see something here – it fits within the mixed-use regulations, 45' height, and significant catalyst for downtown. Owners of Pini happy with their former location to be developed and the family supports the project.

Michael Turner: Concerned about parking & traffic. Resolve these issues before project breaks ground.

Commissioner Tiernan questioned if he has a suggestion regarding parking.

Michael Turner: A city parking garage would help immensely.

Liam O'Flarity: Few of the residents would like to have parking permits. Parking during the day there, not so bad at night time.

Kim Gallagher: I am very excited about the property being developed but safety issues need to be addressed. Mirabella very narrow and no sidewalks. The proposed building does not have adequate parking - employees and customer will park on Mirabella. People speeding on Mirabella won't look for children. Will deliveries drive on Mirabella? Ensure the safety of people on Mirabella.

Vera Lance: Lives on Mirabella for 20 years. I agree with Kimberly about safety issues. I am excited about this project and walk to all the stores. Thank you for looking at our lighting and privacy.

Jack Marshall: I live on Mirabella. I am concerned about several issues. Not sure what is going on with deliveries. Did not know about the conversion issue, need to see CC&R's beforehand. One way on Industrial - against that. Regarding Architectural design - balcony on 3<sup>rd</sup> story looks into backyard. Require that balcony to be removed/blocked screen up there. Parking does not make sense. 46 spaces short, where to put all these people. Radiant heat will go into our backyard - how will that be dealt with?

Jessica Mertz: Mirabella resident. Thank the owners for meeting with neighbors and the mitigation plans. 1102 - 1120 Mirabella covered by the agreement. I emailed our concerns to the Planning Dept on 11/4/18 and also referenced at hearing. Dumpster does not seem large enough, per State law. Noise Study is limiting deliveries from 8am to 12pm? Will notify neighbors within 300 feet if an ancillary use is proposed, etc.

Miguel Sanchez: 1102 Mirabella resident. Has concerns about privacy & traffic. Worried about value of homes, noise, and other problems. Likes the proposal but concerned about safety and privacy.

J.F. O'Sullivan: Great project that is going in - supports it 100%.

Michelle Derviss: Supports 1<sup>st</sup> and Grant project with conditions - safety & privacy. Parking exception needs more detail review. Study both reports - W-Trans & Walker Consultants. W-Trans used outdated manuals when estimating their trip studies and only used commute hours. Also, no detailed analysis on the residential neighborhoods - disservice to the neighborhood. Focus on privacy intrusion from 3<sup>rd</sup> floor building, noise and light pollution. Neighbors left with diminished values, noise, traffic, and parking issues.

Riovan Onnuin: Lives on Mirabella. Am excited and support the beautiful building. However, some issues - We sent a letter that outlines neighborhood concerns signed by most on our block. We do not have sidewalks and concerned with safety of the neighbors walking and would like permitted parking.

Seth Shoren: I think design is fantastic, glad to see the revitalization in the neighborhood, pays homage to downtown Novato. The parking issue is not really a problem in downtown. Experienced developers and can attest to quality of their work.

Greg Corwin: Supports the project and hope to see more mixed-use in Novato to support the businesses, more restaurants.

Jennifer Corwin: I grew up in Novato. Am in support of the project and hope there is more to come.

Elliot Ng: We want the project, but don't want the neighborhood destroyed. Traffic is intolerable – What are the neighbors getting? Not much of anything. Wants permit parking – 1 stop sign at 1<sup>st</sup> and some speed bumps.

Georgia Scullion: Supports the project, have house on Mirabella, would like to give the rest of her time to Jack Marshall to add some thoughts.

Jack Marshall: The area that is for deliveries, that room is going to be used for homeless people. Where is the garbage going to be picked up? On First Street, that will block traffic. We are very concerned with rats in our backyard. What will happen there?

Commissioner Dawson asked about Mr. Marshall's concern with trash collection on 1<sup>st</sup>? Where else could it be picked up if not on 1<sup>st</sup>?

Jack Marshall: That is not my area of expertise.

Georgia Scullion: I do not want the dumpsters on Industrial, I want them on 1<sup>st</sup>.

Coy Smith: CEO of Novato Chamber of Commerce - speaking on behalf of the Board. Applaud the residents on Mirabella and the developers for listening. Unanimous support from the board and government affairs committee and so good to have this site revitalized.

Riley Hurd on behalf of Application: Quoted the Chair of DRC . . . “pivotal moment in time for the redevelopment of downtown Novato. A much needed infill project which has been a hole in the streetscape for far too long. Appreciates addressing privacy.” Another commissioner said that it is a “perfect catalyst for incentivizing redevelopment along West Grant Avenue.” Hundreds of hours have been spent on the draft General Plan which recommends mixed-use and housing on top floor.

Riley Hurd addressed the parking issues: W-Trans is a 3<sup>rd</sup> party outside objective consultant. A parking waiver is a rule in the City's code to facilitate projects such as this one. The applicant has agreed to make concessions such as an 8-ft fence, landscape screen, and opaque non-op windows. The lighting plan will go back to the DRC for addressing finer details. Approve the project as it fits within the Zoning Code and General Plan.

Commissioner Tiernan asked about the concerns with parking, permits? Are you familiar with limited permit, 2 per person?

Deputy Director Blunk stated a letter is forthcoming to residents about permit parking. May look at other options to discourage non-neighborhood parking without widening street. Usually, each resident is issued a certain number of parking spaces.

Commissioner Tiernan said that commercial vehicles also parking here. Asked Senior Planner Grunt if there is enough parking for residents.

Senior Planner Grunt answered that parking is based on occupancy rates and qualifies for a waiver. The 8 foot fencing can be a condition of approval, shielded lighting – photometric will be required at final DRC. The dumpster location was referred to Novato Sanitary and Recology and no comments received on serviceability - meets the Zoning Ordinance requirement on size.

Senior Assistant City Attorney Nebb is recommending a change to condition of approval No. 5, switch “for rent” to “for sale.”



Commissioner Wernick inquired if there is increased parking on 1<sup>st</sup> Street. Have permits for employees? Referenced to Mill Valley permit program – way more restrictive than ours.

Commissioner Gabriel noted this is an almost collegial situation, the developer is working with neighbors. A new project that is occupied won't encourage homeless. A few rough edges to polish but a keystone development in downtown.

Vice Chair Derby brought up safety issues with emergency vehicles – can you do speed bumps?

Deputy Director Blunk stated they have 50/50 support for speed bumps. They are looking at other traffic calming measures that the Fire Department and Police Department will accept the design.

Chair Derby questioned the acoustics – study looked at HVAC and trash? Were there any mitigations? On the Parking Study that is continued, when and how is it implemented? Don't want to wait for that.

Senior Planner Grunt responded that yes, looked at HVAC, but not at trash. The standards were looked at and standard baffling and screening on the rooftop and fencing will be done. Trash delivery on 1<sup>st</sup> Street is fairly removed from the residential area.

Commissioner Rao stated that change is hard, but Novato is ready to embrace it. The project will bring housing, a plus for the community. Excited the developers are following the General Plan and taking the community's comments.

Commissioner Dawson questioned whether Novato Fire District was concerned with formalizing spaces on Mirabella.

Deputy Director Blunk said the street is not wide enough to have parking and fire service – If substandard, an open door for liability.

Commissioner Dawson said this project type is what the downtown needs, living and supporting the businesses, parking is an issue everywhere. Charm of Grant with trees is a pleasant environment and emphasize that.

Commissioner Weldon agrees with the Design Review Committee – a good design for the area. There always will be issues with living adjacent to a downtown area and the community feedback process was taken into consideration and the conditions of approval were appropriate. Suggested a comprehensive parking strategy for the downtown area, but believes the project's parking is adequate.

Commissioner Tiernen asked about the demolition permit - does the applicant need to notify you and put up fences, etc? Is it a public record?

Senior Planner Grunt said right now there is no condition that the neighbors be notified of a demolition permit. Could be imposed that adjacent neighbors be notified of demolition permit. There is a logistical plan – demolition permit is a public record.

Commissioner Tiernen asked about possible tenants coming in to get use permits, do they come back in to get approved?

Senior Planner Grunt answered those that require a use permit would come back to you.

Planning Manager Marshall stated the Zoning Ordinance already specified what can use can go into the building - Downtown Core is reserved for retail, entertainment, and restaurants on the first floor.

Commissioner Tiernen supports the project, attractive building, and improvement to downtown Novato, just wants to address any issues for the neighbors.

Commissioner Wernick is favorable to the project and it is consistent with the General Plan. It provides incredibly needed housing. Passionate about housing that is needed, this project will provide the right type of housing, will be beautiful, and looks forward to it being built. Need people in downtown for revitalization and knows first-hand the parking challenges. Something does need to happen to address parking concerns.

Vice Chair Derby thanked the public for all of their input and thanked the developer for concessions, listening to the community, and putting in retail. It will bring vibrancy to downtown and will bring the rooftops to have people shopping – an exciting environment through the update of our General Plan.

Senior Assistant City Attorney Nebb added an addition to condition No. 5 be more specific with time for notice. First sentence remains the same - 180 days-notice prior to sale.

Riley Hurd: Applicant has no issue with change to conditions.

Senior Assistant City Attorney Nebb addressed the email from Mertz and wondering if Applicant agrees and added conditions:

Fence – Labor for 8 foot solid fence with gates at 1102 – 1120 Mirabella Avenue, 1116 keeps existing fence.

Trees – New trees at neighbors choice.

Windows – frosted glass at south windows at property line, the closest 8 windows

Privacy Screen – At west end of building at south facing balconies

Lighting – Verify there are no impacts with lighting

Riley Hurd: Developer agrees with voluntary conditions as clarified.

M/s: Tiernan/Dawson to approve the Resolution addressing: 1) CEQA categorical exemption; 2) granting a use permit; 3) approving the project design; and, 4) approving a vesting tentative map to allow for the construction and operation of a three-story 80,343 sf mixed-use building with a modification to condition No. 5 as read into the record, added additional conditions as read into the record regarding the fences, trees, balconies, lighting, and screening as clarified by the applicant.

Motion passed 7-0-0-0 (Ayes: Dawson, Tiernan, Gabriel, Rao, Weldon, Wernick, and Derby; Nays: None; Recused: None; Absent: None)

**GENERAL BUSINESS:**

**3. ELECTION OF CHAIR AND VICE CHAIR**

Planning Manager Marshall stated the rules to appoint the Chair and Vice Chair of the Commission. Staff will take motions and a vote to approve.

Vice Chair Derby nominated Commissioner Gabriel to be the new Vice Chair. Commissioner Gabriel accepted the nomination and it was approved unanimously 7-0.

Commissioner Gabriel nominated Vice Chair Derby as the new Chair of the Commission. Commissioner Derby accepted the nomination and it was approved unanimously 7-0.

**4. DISCUSSION AND POSSIBLE ACTION TO MOVE PLANNING COMMISSION MEETINGS TO THE FIRST AND THIRD THURSDAY OF EACH MONTH.**

Planning Manager Marshall discussed possibly moving the Commission hearings to another date as the City Attorney's office has a conflict and polled the Commissioners as to another date for consideration.

It was proposed that the date could possibly be changed to the second and fourth Monday of the month rather than the current schedule of the first and third Monday.

Planning Manager Marshall suggested to table this item to check on the schedule of the room and the videographer and then come back to confirm the feasibility with the Commission.

**UPCOMING AGENDAS AND QUORUMS:** Planning Manager Marshall discussed future meeting schedules.

**ADJOURNMENT:** Meeting Adjourned at 10:37pm.