

PLANNING COMMISSION STAFF REPORT

DATE: June 8, 2020

STAFF: Kaitlin Zitelli, Planner I
(415) 899-8941; kzitelli@novato.org**SUBJECT STONETREE DRIVING RANGE
CEQA MITIGATED NEGATIVE DECLARATION
MITIGATION MONITORING & REPORTING PROGRAM
P2019-036; GENERAL PLAN AMENDMENT
P2019-037; ZONING MAP AMENDMENT
P2019-051; USE PERMIT
APN 157-160-18; TWOWATER TRAIL SOUTH OF 9 STONETREE LANE**

REQUESTED ACTION

Conduct a public hearing to consider and adopt (1) resolution recommending the City Council adoption of findings and a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; (2) resolutions recommending approval of (a) a general plan land use map amendment, (b) a zoning map amendment, (c) a use permit allowing the long-term operation of an existing golf driving range on a 10-acre portion of APN 157-160-18.

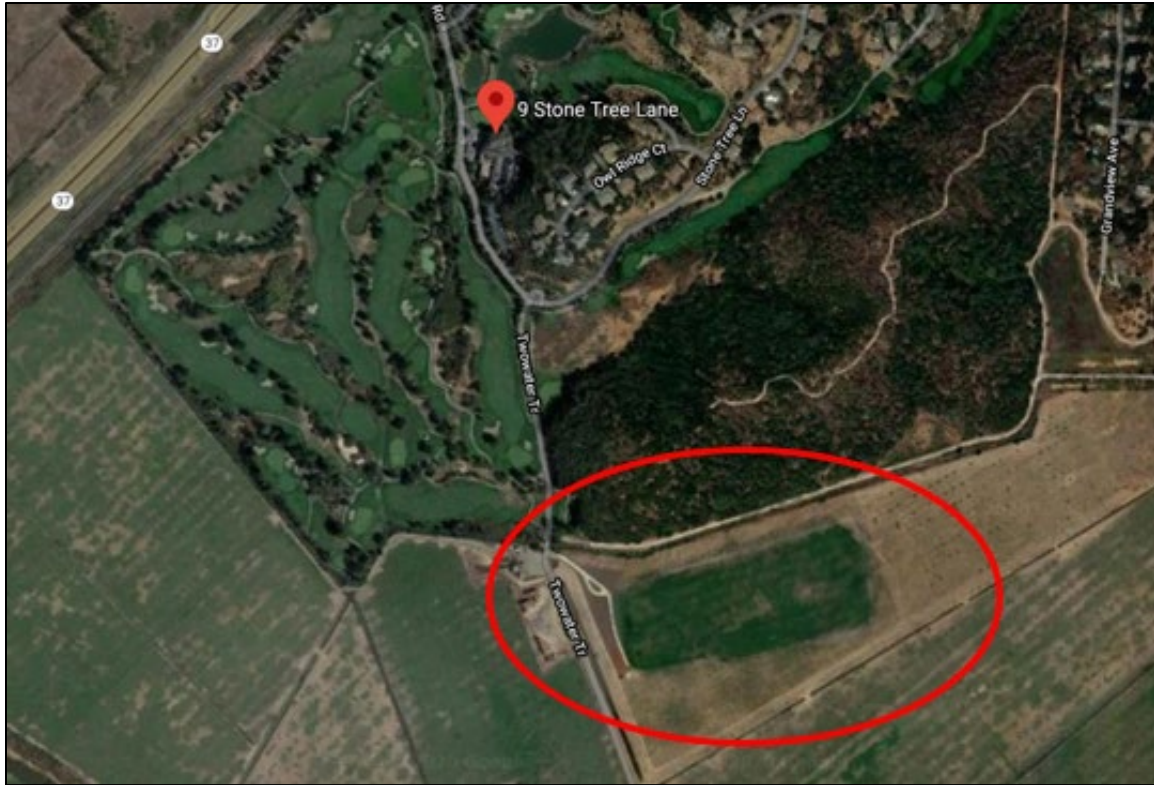
EXECUTIVE SUMMARY

Bay Club StoneTree LLC (“Applicant”) has submitted entitlement applications to allow long-term operation of an existing golf driving range on a 10-acre portion of a larger +/-437-acre parcel assigned APN 157-160-18, located at the terminus of Twowater Trail. The applicant leases the portion of the parcel used for the driving range from the property owner, Marin County Flood Control and Water Conservation District (Flood Control District). The golf driving range currently operates at the site under a temporary use permit (P2015-057) and is associated with the StoneTree Golf Club located north of the project site at 9 StoneTree Lane.

The Project requires a general plan land use map amendment to amend the land use designation of a 10-acre portion of the larger parcel from Open Space (OS) to Conservation (CON). The Project requires a rezoning of the 10-acres from Open Space (OS) to Conservation, minimum lot size 10-acres (CON-10), to permit the long term operation of a golf driving range. The general plan and zoning maps that depict the existing and proposed designations are included as Exhibit A to Attachments 2 and 3, respectively. Finally, a use permit is required for operation of a golf driving range in the CON zoning district, and for any new land use within the Baylands (B) overlay district.

Staff is recommending approval of the proposed general plan land use map amendment, zoning map amendment, and use permit.

Figure 1: Aerial view of the project site



PROJECT DESCRIPTION

Project Site

The Project site is located at the terminus of Twowater Trail, a private service road extending south of the StoneTree Golf Club. The driving range encompasses a 10-acre portion of a larger ±437-acre parcel which is used for growing hay, cattle grazing, and as spray fields for reclaimed wastewater.

Background

The Applicant purchased the StoneTree Golf Club in 2014. At the time, no golf driving range was provided as part of the golf club. In 2015, the Applicant submitted an application for a temporary use permit (P2015-057) in order to provide a temporary golf driving range at the present location, while options to create a long-term or permanent driving range were explored. The Planning Commission conditionally granted the temporary use permit at a public hearing on June 12, 2017. The [staff report](#) and [minutes](#) from this meeting are available for digital download. The adopted resolution contained a condition of approval establishing a two-year expiration date with an option to request a single, one-year time extension subject to review and approval by the Planning Commission. The temporary use permit was scheduled to expire on June 12, 2019, pending a timely filed request for an extension. On April 16, 2019, the applicant submitted a request for a single,

one-year time extension. The Planning Commission granted the one-year time extension at a public hearing on July 8, 2019. The [staff report](#) and [minutes](#) from this meeting are available for digital download. This extension of the temporary use permit will expire on June 12, 2020.

The applicant has since submitted applications for a general plan map amendment and zoning map amendment on April 25, 2019, and a use permit application on June 17, 2019 to allow the temporary driving range to operate at the current location in a more long-term capacity.

Operational Components

The driving range is open all week (Monday through Sunday) from 7 AM to 6 PM. The driving range includes 30 tee stations, allowing use of the range for up to 30 golfers at a time. The driving range is used for lessons, practice, and warm-up swings. Golfers and employees are transported to the driving range via golf cart shuttles to and from StoneTree Lane. Ride-on grass mowers are used to cut the grass and golf balls are retrieved by hand. Organic fertilizer is used on the driving range and no chemicals are involved with operation of the driving range. Existing improvements to the site consist of 30 tee stalls, a 12-foot wide decomposed granite access path for pedestrian access, a 4-foot high split rail fence to separate the range from the surrounding cattle grazing operation, three (3) picnic tables, and a storage shed. No additional development or changes are proposed.

NEED FOR PLANNING COMMISSION ACTION

Novato Municipal Code (NMC) Section 19.56.050 requires the Planning Commission to conduct a public hearing and make a written recommendation to the City Council regarding whether to approve, approve in a modified form, or disapprove an amendment to the general plan land use map and/or zoning map. Use permit applications can be acted on by the Zoning Administrator, however pursuant to NMC Section 19.40.030 – *Concurrent Permit Processing*, the use permit application for this Project will be reviewed concurrently with the general plan amendment and zoning map amendment by the highest review authority (City Council) subsequent to a recommendation by the Planning Commission.

BACKGROUND

Applicant:	The Bay Club StoneTree, LLC
Property Owner:	Marin County Flood Control and Water Conservation District
Property Size:	±437.85 acres (10-acres used for driving range)
General Plan Designation:	Open Space (OS)
Proposed Designation:	Conservation (CON)
Zoning Designation:	Open Space (OS)
Proposed Zoning:	Conservation (CON-10)

Existing Use: Golf Driving Range, Reclaimed Waste Water Disposal, Cattle Grazing

Adjacent Zoning and Uses: North – Planned District (PD); vacant parcel and StoneTree Golf Course/Single Family Homes
 South – Open Space (OS), Baylands Overlay (B) and Flood Hazard Overlay (F2); Vacant Parcel
 East – County Lands
 West – Open Space (OS), Baylands Overlay (B) and Flood Hazard Overlay (F2); Vacant Parcel

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 operation of the Project would result in significant environmental impacts. The Initial Study determined that the continued operation of the Project as originally constructed would not result in significant impacts to the environment. However, the uses permitted under proposed land use and zoning changes, while limited, could result in potentially significant impacts to the environment if pursued in the future. Feasible mitigation measures are available to avoid or reduce the impacts to less than significant levels. Therefore, it is recommended that a Mitigated Negative Declaration be adopted for the Project.

Table 1 below summarizes each potentially significant impact and its corresponding mitigation measure. A full discussion of each impact is provided in the StoneTree Driving Range Initial Study, available for Planning Commission review via digital download on the project webpage: novato.org/stonetreedrivingrange.

TABLE 1 IMPACT AND MITIGATION SUMMARY	
IMPACT	MITIGATION
<p>Biological Resources Impact: If construction activities occur during the bird nesting season (typically February 1 through August 31), nesting birds could be disturbed by construction noise or tree removal. Implementation of Mitigation Measure BIO-1 would ensure that impacts to nesting birds are reduced to a less than significant level. (Mitigated Negative Declaration/Initial Study p. 23)</p>	<p>Mitigation Measure BIO-1: Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impactor within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the</p>

	<p>species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.</p>
<p>Cultural Resources Impact: Unknown archeological resources could be exposed during construction activities for future projects. Implementation of Mitigation Measure CUL-1 would ensure that impacts to unknown archaeological resources would be less than significant. (Mitigated Negative Declaration/Initial Study p. 26)</p>	<p>Mitigation Measure CUL-1: In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior’s Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR 60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.</p>
<p>Cultural Resources Impact: There is the potential to encounter and disturb unknown human remains during construction of future potential projects due to history of Native American inhabitation of Marin County. (Mitigated Negative Declaration/Initial Study p. 27)</p>	<p>Mitigation Measure CUL-2: In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.</p>
<p>Geology and Soils Impact: There is the potential to encounter and disturb unknown paleontological resources during grading and</p>	<p>Mitigation Measure GEO-1: Prior to the commencement of any grading activity, the applicant shall retain a qualified paleontologist, subject to the review and approval of the lead agency to ensure the implementation of a paleontological</p>

<p>excavation activities for future potential projects. (Mitigated Negative Declaration/Initial Study p. 33)</p>	<p>monitoring program. The qualified paleontologist shall attend, or call in to, any pre-construction meetings and manage the paleontological monitor(s) if he or she is not doing the monitoring. A paleontological monitor should be on site during all excavations below the depth of previously disturbed sediments. Monitors must demonstrate proficiency in recognizing various types of fossils, in collection methods, and in other paleontological field techniques.</p> <p>The paleontological monitor shall monitor construction excavations below a depth of 5 feet in areas underlain by Quaternary alluvium and all excavations in areas underlain by elevated Quaternary alluvium as determined by the Qualified Paleontologist based on the construction plans. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find.</p> <p>Following the paleontological monitoring program, a final monitoring report shall be submitted to the City, for approval. The report should summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.</p>
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NEIGHBORHOOD MEETING

A neighborhood meeting for the Project was held on August 22, 2019 at 6 p.m. at the StoneTree Golf Club clubhouse. The meeting was attended by approximately 45 people. The meeting notice was mailed to all property owner within a 600-foot radius of the subject site, as well as to the Black Point and Renaissance at StoneTree neighborhoods. A summary of comments and questions from the meeting attendees is provided below:

- Are there plans to install lighting at the range, and what is process for installing lighting in the future?
- Why is the lease period 10 years?
- Is the area affected by flooding?
- More fencing is needed.

- Was the driving range intended to be temporary until a permanent range could be built on land owned by StoneTree?
- The driving range is appreciated.
- Has the City ever received complaints regarding the range?
- Why is a golf course an allowable use within the Conservation zoning district? Naming the zoning district 'Conservation' is a misuse of the term.
- Bay Club has been a good steward of the land and the driving range is a good land use.
- Placement of the driving range is cutting off the open space area. An alternate location could be near Highway 37.
- Are pesticides and herbicides used on the driving range?
- The driving range is a good place for bird watching.
- A driving range is needed to be a successful golfer.
- The driving range takes up open space and former wetlands.
- Will environmental review be required?
- Is the project consistent with Baylands overlay zoning district?

The questions above were answered during the meeting by the applicant team or by planning staff as appropriate.

STAFF ANALYSIS

General Plan Land Use Map Amendment (LU1)

As described above, the Project includes a request for a general plan land use map amendment to change the land use designation applicable to a 10-acre portion of the subject parcel from Open Space (OS) to Conservation (CON). See Exhibit A to the draft General Plan Land Use Map Amendment Resolution, Attachment 2.

LU Table 2: *Land Use Designations* of the General Plan provides the following definition for Conservation (CON):

“Applies to privately-owned land that is mainly unimproved. Permitted uses are agriculture, detached single-family dwellings, preservation of natural resources, outdoor recreation, cemeteries and associated facilities, and other similar uses. Examples include Bayfront, watercourse, and hillside areas.”

The Project is considered to be consistent with the uses and development intensity allowed under the CON definition, as a golf driving range represents a form of outdoor recreation.

The General Plan Land Use Map (LU1) may be amended if the City Council can make the findings specified in NMC Section 19.56.070.A. The Planning Commission is tasked with considering these findings when providing its written recommendation to the City Council regarding the proposed general plan amendment. These findings are listed below for Planning Commission reference:

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

The Project has been reviewed to determine whether assigning the CON land use designation to a 10-acre portion of the subject parcel, and the subsequent operation of the golf driving range are consistent with the above findings. In all instances the proposed general plan amendment and project were found to meet the noted findings. The specific facts to support this position are provided in the draft resolution recommending approval of the proposed general plan amendment presented as Attachment No. 2.

Zoning Map Amendment

The requested Project entitlements include a zoning map amendment for a 10-acre portion of the parcel from Open Space (OS) to Conservation - minimum lot area of 10-acres (CON-10), consistent with the proposed General Plan land use designation. NMC 19.08.040, Table 2-3, Footnote 3, requires that the density suffix be applied to a property on the zoning map when a property is rezoned to CON.

The project site is currently assigned the Baylands (B) and Flood Hazard (F2) Overlays. These zoning district overlays would remain assigned to the project site, with CON-10:B:F2 (Conservation, minimum 10-acre area, with Baylands and Flood Hazard Overlays) being the final zoning designation applied to the Project area should the zoning map amendment be approved.

The Baylands overlay zoning district is applied to areas within the historic Baylands excluding lands that have been legally filled or legally developed. Use permit approval is required to authorize any proposed development, alterations to land and/or new land use within the Baylands overlay district in addition to land use permits required by the primary zoning district. Proposed development and new land uses within the Baylands overlay district must be designed and constructed in compliance with the following development standards, as specified in NMC 19.16.030.E:

- **Habitat protection.** The Project was designed and constructed to include 50-foot buffer areas between drainage channels and any development associated with the golf driving range as seen on the project plans, available for digital download on the project website: novato.org/stonetreedrivingrange. Fencing was also placed between the drainage areas and

the driving range. Additionally, Section 3.4, Biological Resources of the IS/MND prepared for the Project, did not identify any impacts to wildlife or habitat that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures.

- **Access and recreation.** The Project provides access and recreation opportunities.
- **Site planning and structure design.** Improvements constructed above finished grade include the tee stalls, as well as a shed and several picnic tables. None of these improvements prevent public visual access to the adjacent Baylands, as the surrounding area is flat and undeveloped, and used for agricultural use. The residential areas to the north of the project site are not visually impacted by the Project development.
- **Environmental quality.** The Project and requested entitlements have undergone environmental review pursuant to the requirements of CEQA and the City of Novato Environmental Review guidelines. Mitigation measures are included to eliminate or reduce any potentially significant impacts to the environment as a result of the Project or future allowable uses to less than significant levels.
- **Protection from hazards.** The IS/MND prepared for the Project entitlements included analysis related to various technical topics addressing public health, safety, and welfare. In no instance did the IS/MND identify significant impacts associated with this Project that could not be mitigated to less than significant levels with the implementation of feasible mitigation measures. These mitigation measures will be applied to the Project as conditions of approval.
- **Agricultural uses.** The golf driving range use does not interfere with surrounding agricultural uses or prevent the surrounding area from being used for agricultural purposes. No chemicals are associated with the use, and only organic fertilizers are used on the driving range.

The F2 overlay is applied to lands within a secondary floodway, including the portion of a natural floodway between the limits of the F1 zone and where flood inundation may occur and depths and velocities are low. The F2 overlay permits land uses normally allowed in the primary zoning district.

The zoning map may be amended if the City Council can make the findings specified in NMC Section 19.56.070.C. The Planning Commission is tasked with considering these findings when providing its written recommendation to the City Council regarding the proposed rezone. These findings are listed below for Planning Commission reference, followed by staff analysis.

1. The proposed amendment is consistent with the General Plan;
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;

3. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines;
4. The site is physically suitable (including absence of physical constraints, access, compatibility with adjoining land uses, and provision of utilities) for the requested zoning designations and anticipated land uses/developments.

The proposed zoning map amendment and the subsequent long-term operation of the golf driving range have been reviewed against the findings above. In all instances, the proposed Project was found to meet the noted findings. The specific facts to support this position are provided in the draft resolution recommending approval of the proposed zoning map amendment, Attachment No. 3.

Use Permit

NMC 19.08.030 Table 2-2 identifies ‘Golf Courses and Country Clubs’ as a land use requiring a use permit in the Conservation zoning district. A golf driving range fits the definition of ‘Golf Courses and Country Clubs’ as defined in NMC 19.60.020:

Golf Courses and Country Clubs: Golf courses, and accessory facilities and uses including: clubhouse with bar and restaurant, locker and shower facilities, **driving ranges**, ‘pro shops’ for on-site sales of golfing equipment, and golf cart storage and sales facilities.

The golf driving range is a component of the StoneTree golf course, and with an approved use permit, is an allowable use within the CON zoning district. Additionally, as described previously in this staff report, a use permit is required for any new uses within the Baylands overlay district. To grant a use permit for operation of a golf driving range at APN 157-160-18, the City Council must make the findings of NMC Section 19.42.050 E. to approve the requested use permit for the Project. The Planning Commission is tasked with considering these findings when providing its written recommendation to the City Council regarding the proposed use permit. These findings are listed below for Planning Commission reference.

1. The proposed use is consistent with the General Plan and any applicable specific plan;
2. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;
3. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The requested use permit and the subsequent long-term operation of the golf driving range have been reviewed against the findings above. In all instances, the proposed Project was found to meet the noted findings. The specific facts to support this position are provided in the draft resolution recommending approval of the use permit, Attachment No. 4.

Public Notice

Public notices describing the Planning Commission hearing of June 8, 2020 on the Project and its associated development entitlements were sent to all property owners within 600-feet of the boundaries of the Project Site, the entire Blackpoint community and Renaissance at StoneTree neighborhoods, 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 Section 19.58.020 of the Novato Municipal Code, posted on the Project webpage on the City's website, and published in the Marin Independent Journal, a newspaper of local circulation, on May 21, 2020. To date, June 1, 2020 staff has not received further inquiry from members of the public regarding the Project and the Planning Commission's scheduled hearing of June 8, 2020.

COMMISSION ALTERNATIVES

1. Recommend the City Council adopt a CEQA determination and approve the requested general plan amendment, rezone, and use permit by adoption of the attached resolutions; or
2. Modify the proposed resolution(s) and recommend the City Council adopt a CEQA determination and approve the requested general plan amendment, rezone, and use permit; or
3. Recommend the City Council not adopt a CEQA determination and deny the requested general plan amendment, rezone, and use permit; or
4. Continue the public hearing with direction to staff.

RECOMMENDATION

Recommend the City Council: (1) adopt findings and a Mitigated Negative Declaration, and a Mitigation Monitoring and Reporting Program, (2) approve (a) a general plan land use map amendment, (b) a zoning map amendment, (c) a use permit to allow the long-term operation of an existing golf driving range on a 10-acre portion of APN 157-160-18.

FURTHER ACTION

The Planning Commission's recommendation regarding the proposed general plan amendment, rezoning, and use permit will be forwarded to the City Council for consideration at a future public hearing.

AVAILABLE FOR DIGITAL DOWNLOAD AT: novato.org/stonetreedrivingrange

1. Project Plans
2. StoneTree Driving Range CEQA IS/MND

ATTACHMENTS

1. Resolution – Mitigated Negative Declaration
2. Resolution – General Plan Amendment
3. Resolution – Zoning Map Amendment
4. Resolution – Use Permit

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2020-_____

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION FOR STONETREE DRIVING RANGE (P2019-036) ON LAND SOUTH OF THE STONETREE GOLF CLUB ON A 10-ACRE PORTION OF APN 157-160-18, INVOLVING A GENERAL PLAN LAND USE MAP AMENDMENT, ZONING MAP AMENDMENT, AND USE PERMIT.

WHEREAS, the City of Novato (“City”) received applications from Bay Club (“Applicant”) for a general plan land use map amendment, zoning map amendment, and use permit for long-term operation of an existing golf driving range on a 10-acre portion of APN 157-160-18 at the terminus of Twowater Trail; and

WHEREAS, the general plan map amendment application (P2019-036) requests the City amend the General Plan land use map from Open Space (OS) to Conservation (CON) to allow for long-term operation of a golf driving range; and

WHEREAS, the zoning map amendment application (P2019-037) requests the City from Open Space (OS) to Conservation, minimum area 10-acres (CON-10), to conform with the requested general plan amendment; and

WHEREAS, the use permit application (P2019-051) requests the City approve operation of a golf driving range under the land use category of ‘Golf Courses and Country Clubs’ within a CON zoning district; and

WHEREAS, on August 22, 2019, the Applicant hosted a neighborhood meeting to present the Project to and receive feedback from the public. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Code Section 19.40.070D; 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/ 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 requested amendment to the General Plan Land Use map, and other development entitlements required for the Project, including a zoning map amendment and a use permit, and operation of the Project itself, to determine if these actions would result in significant physical impacts to the environment; and

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

WHEREAS, public notices announcing a 20-day public review period for the IS/MND, beginning May 21, 2020 and ending on June 9, 2020 and the Planning Commission's hearing of June 8, 2020 were sent to all affect property owners within 600-feet of the Project Site and to the entire Renaissance at StoneTree and Blackpoint neighborhoods, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the Marin County Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation on May 21, 2020; and

WHEREAS, the Planning Commission held a public hearing on June 8, 2020, and considered all oral and written comments on the IS/MND, 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 IS/MND, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, 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 IS/MND, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings, the Project, and the Project's associated development entitlement requests (7) all other matters of common knowledge to the City decision maker including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

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

Based on the information in the IS/MND for the Project dated February 2020, the Record as described above, and all other matters deemed material and relevant prior to adopting this resolution, the Planning Commission hereby recommends the adoption of a Mitigated Negative Declaration for the Project and its associated development entitlements based on the following:

- a. The IS/MND has been completed in compliance with the California Environment Quality Act (California Public Resources Code Section 21000 – 21178) and the City of Novato Environmental Review Guidelines; and

- b. The IS/MND was presented to the Planning Commission, which, at a hearing before the public, reviewed and considered the information contained in the Mitigated Negative Declaration/Initial Study prior to making a recommendation to the City Council regarding the Project and its associated development entitlements; and
- c. The Mitigated Negative Declaration reflects the City's independent judgement and analysis as Lead Agency.

Section 3. CEQA Findings

The Planning Commission hereby adopts and recommends to the City Council the adoption of the IS/MND dated February 2020, complete with the included Findings and Facts set forth as *Exhibit A* attached hereto and incorporated herein by reference, and based thereon and on the Record as a whole, the Planning Commission hereby finds and recommends that the City Council find that all significant environmental effects of the Project its associated development entitlement actions have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated or substantially lessened as set forth in the IS/MND. Based upon the foregoing, the Planning Commission finds, determines, and recommends that the City Council find and determine that the Project and its associated actions will not have a significant effect upon the environment.

Section 4. Mitigation, Monitoring, and Reporting Program

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

Section 5. Indemnity and Time Limitations

- a. The Applicant, property owner 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 action(s) 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 Applicant, the property owner, the City, and/or parties initiating or bringing such action.
- b. The Applicant, property owner 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 Applicant 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 Applicant 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 Applicant 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 Applicant 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 Applicant or property owner.
- d. The Applicant, property owner and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Chair

Attachments

- Exhibit A – Initial Study/Mitigated Negative Declaration Findings and Facts
- Exhibit B – Mitigation Monitoring and Reporting Program

DRAFT

EXHIBIT A

**STONETREE GOLF DRIVING RANGE LOCATED ON A 10-ACRE PORTION OF
APN 157-160-18
STATEMENT OF CEQA FINDINGS AND FACTS**

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

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

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

A. Biological Resources Impact: If construction activities occur during the bird nesting season (typically February 15 through August 31), nesting birds could be disturbed by construction noise and tree removal. Implementation of Mitigation Measure BIO-1 would ensure that impacts to nesting birds are reduced to a less than significant level. (Mitigated Negative Declaration/Initial Study p. 23).

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

Facts in Support of Finding: Mitigation Measure BIO-1 has been proposed in the Mitigated Negative Declaration/Initial Study to reduce and/or avoid the Project's potential to disturb nesting birds during construction of future projects allowed under the CON land use and zoning designations. Mitigation Measure BIO-1 requires pre-construction surveys for nesting migratory bird nests within or immediately adjacent to the project site no more than one week prior to commencement of construction or grading activities. Mitigation Measure BIO-1 provides specific steps to be followed in the event nesting birds are located, including the establishment of appropriate buffer

areas within which construction work would not be permitted until young birds have fledged.

- B. Cultural Resources Impact:** The Project could adversely impact archaeological resources and/or human remains during construction of possible future Projects allowable at the site under the Conservation (CON) general plan and zoning designations. Implementation of Mitigation Measures CUL-1 and CUL-2 would reduce these potentially significant impacts to less-than-significant levels. (Mitigated Negative Declaration/Initial Study p. 26-27).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to adversely impacting archaeological resources and/or human remains by implementation of Mitigation Measures CUL-1 and CUL-2 as identified in the Mitigated Negative Declaration/Initial Study.

Facts in Support of Finding: Mitigation Measures CUL-1 and CUL-2 have been proposed in the Mitigated Negative Declaration/Initial Study to ensure the protection of archaeological resources and/or human remains due to construction of possible future Projects allowable at the site under the Conservation (CON) general plan and zoning designations. Mitigation Measure CUL-1 requires that in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities, all earth-disturbing work within 100-feet of the find shall immediately stop and a qualified archaeologist meeting the Secretary of the Interior's Professional Qualification Standards shall be retained to evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]); California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (363 CFR 60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

Mitigation Measure CUL-2 requires that in accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work within 100-feet of the find shall immediately stop and the county coroner be notified of the discovery. If the county coroner determines that the human remains are or believed to be Native American, they shall notify the Native American Heritage Commission (NAHC) within 24-hours. In accordance with California Public Resources Code, Section 5097.98. the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American.

C. Geology and Soils Impact: The Project could adversely impact paleontological resources and geologic resources during construction of possible future projects allowable at the site under the Conservation (CON) general plan and zoning designations. Implementation of Mitigation Measure GEO-1 would reduce this potentially significant impact to a less-than-significant level. (Mitigated Negative Declaration/Initial Study p.33-34).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will avoid or substantially lessen the potentially significant environmental impact related to adversely impacting paleontological or geologic resources by implementation of Mitigation Measure GEO-1 as identified in the Mitigated Negative Declaration/Initial Study.

Facts in Support of Finding: Mitigation Measure GEO-1 has been proposed in the Mitigated Negative Declaration/Initial Study to reduce and/or avoid the Project's potential to adversely impact paleontological or geologic resources during construction of possible future Projects allowable at the site under the Conservation (CON) general plan and zoning designations. Mitigation Measure GEO-1 requires the applicant to retain a qualified paleontologist to ensure the implementation of a paleontological monitoring program. The paleontologist shall attend or call-in to any pre-construction meetings and manage paleontological monitors. A paleontological monitor shall be on site during all excavations below the depth of previously disturbed sediments, as well as excavations below a depth of 5-feet in areas underlain by Quaternary alluvium and all excavations in areas underlain by elevated Quaternary alluvium as determined by the Qualified Paleontologist based on the construction plans. In the event that a paleontological resource (e.g., fossil) is unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity within a 50-foot buffer of the find. Grading may commence after documentation and collection of the find.

Exhibit B: Mitigation Monitoring and Reporting Program

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
Biological Resources				
<p>Mitigation Measure (MM-) BIO-1 Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impactor within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.</p>	Project developer and qualified biologist	<p>Prior to the start of project construction</p> <p>During project construction as necessary</p>	City of Novato – Planning Division, developer, contractor, and biologist	
Cultural Resources				
<p>MM-CUL-1 In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior’s Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the</p>	Project developer, contractor, and qualified professional archaeologist	During project construction	City of Novato – Planning Division	

Exhibit B: Mitigation Monitoring and Reporting Program

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR 60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.</p>				
<p>MM-CUL-2 In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.</p>	<p>Project developer, contactor, coroner and City of Novato</p>	<p>Ongoing during project construction</p>	<p>City of Novato, developer, contractor, and coroner</p>	
Geology and Soils				
<p>MM-GEO-1 Prior to the commencement of any grading activity, the applicant shall retain a qualified paleontologist, subject to the review and</p>	<p>Project developer and qualified paleontologist</p>	<p>During project excavation below 5 feet</p>	<p>City of Novato, developer, and qualified paleontologist</p>	

Exhibit B: Mitigation Monitoring and Reporting Program

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>approval of the lead agency to ensure the implementation of a paleontological monitoring program. The Society of Vertebrate Paleontology (SVP 2010) defines a qualified paleontologist as having:</p> <ul style="list-style-type: none"> • A graduate degree in paleontology or geology, and/or a publication record in peer reviewed journals; and demonstrated competence in field techniques, preparation, identification, curation, and reporting in the state or geologic province in which the project occurs. An advanced degree is less important than demonstrated competence and regional experience. • At least two full years professional experience as assistant to a Project Paleontologist with administration and project management experience; supported by a list of projects and referral contacts. • Proficiency in recognizing fossils in the field and determining significance. • Expertise in local geology, stratigraphy, and biostratigraphy. • Experience collecting vertebrate fossils in the field. <p>The qualified paleontologist shall attend, or call in to, any pre-construction meetings and manage the paleontological monitor(s) if he or she is not doing the monitoring. A paleontological monitor should be on site during all excavations below the depth of previously disturbed sediments. The SVP (2010) defines a qualified paleontological monitor as having:</p> <ul style="list-style-type: none"> • BS or BA degree in geology or paleontology and 1 year experience monitoring in the state or geologic province of the specific project. An associate degree and/or demonstrated experience showing ability to recognize fossils in a biostratigraphic context and recover vertebrate fossils 				

Exhibit B: Mitigation Monitoring and Reporting Program

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
<p>in the field may be substituted for a degree. An undergraduate degree in geology or paleontology is preferable, but is less important than documented experience performing paleontological monitoring, or</p> <ul style="list-style-type: none"> • AS or AA in geology, paleontology, or biology and demonstrated 2 years' experience collecting and salvaging fossil materials in the state or geologic province of the specific project, or • Enrollment in upper division classes pursuing a degree in the fields of geology or paleontology and 2 years of monitoring experience in the state or geologic province of the specific project. <p>Monitors must demonstrate proficiency in recognizing various types of fossils, in collection methods, and in other paleontological field techniques.</p> <p>The paleontological monitor shall monitor construction excavations below a depth of 5 feet in areas underlain by Quaternary alluvium and all excavations in areas underlain by elevated Quaternary alluvium as determined by the Qualified Paleontologist based on the construction plans. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find.</p> <p>Following the paleontological monitoring program, a final</p>				

Exhibit B: Mitigation Monitoring and Reporting Program

Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Report Responsibility	Status/Date Completed
monitoring report shall be submitted to the City, for approval. The report should summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.				

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE AN AMENDMENT TO THE NOVATO GENERAL PLAN LAND USE MAP TO CHANGE THE LAND USE DESIGNATION APPLIED TO A SITE FROM OPEN SPACE (OS) TO CONSERVATION (CON) APPLICABLE TO A 10-ACRE PORTION OF APN 157-160-18, AT THE TERMINUS OF TWOWATER TRAIL, SOUTH OF 9 STONETREE LANE

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

WHEREAS, the City of Novato ("City") received an application (P2019-036) from Bay Club ("Applicant") proposing to amend the General Plan Land Use Map (Land Use Map LU 1) to change the land use designation assigned to a portion of the parcel at APN 157-160-18 from Open Space (OS) to Conservation (CON) as depicted in *Exhibit A* included herewith; and

WHEREAS, in addition to the application for a General Plan Amendment, the Applicant has also submitted applications for zoning map amendment, and a use permit (collectively, the Project Entitlements); 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/ 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 requested amendment to the General Plan Land Use map, and other development entitlements required for the Project, including a zoning map amendment and a use permit, and operation of the Project itself, to determine if these actions would result in significant physical impacts to the environment; and

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

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did make a recommendation to the City Council regarding the CEQA compliance for the Project and did consider the IS/MND prior to taking action on the Project; and

WHEREAS, on August 22, 2019, the Applicant hosted a neighborhood meeting to present the Project to and receive feedback from the public. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Code Section 19.40.070D; and

WHEREAS, public notices describing the Planning Commission's public hearing on the Project, including the General Plan Amendment at issue herein, were sent to all affected property owners within 600 feet of the boundaries of the Project site, and to all property owners in the Blackpoint community and the StoneTree at Renaissance neighborhood, and all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on May 21, 2020; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 8, 2020 to consider and receive public testimony on the Project, including the General Plan Amendment at issue herein; and

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, 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 IS/MND, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings, the Project, and the Project's associated development entitlement requests (7) all other matters of common knowledge to the City decision maker including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

Section 3. Findings

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

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

Facts in Support: The amendment would change the land use designation applicable to the 10-acre portion of the parcel currently occupied by the golf driving range from Open Space (OS) to Conservation (CON), as depicted in *Exhibit A*, attached hereto and incorporated herein by reference. This action is intended to permit the long-term operation of a golf driving range at this location.

The proposed long-term operation of a golf driving range at this location has been reviewed against applicable policies of the Novato General Plan. Based on this review, the amendment is considered to be consistent with all applicable policies of the General Plan, as documented in *Exhibit B* attached hereto and incorporated herein by reference. *Exhibit B* lists each applicable policy of the General Plan and details facts supporting the Project's consistency therewith.

Based on these observations, the general plan amendment is considered to be internally consistent with the General Plan.

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

Facts in Support: Approval of the amendment would result in the assignment of the Conservation (CON) land use designation to a portion of the parcel. This action is intended to support the operation of the Project.

A CEQA IS/MND was prepared for the general plan amendment and the other required project entitlements to determine if approval of these requests and subsequent continued operation of the project would result in significant impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including nearby residents and employees, and the City's residents at large. In no instance did the IS/MND identify any significant impacts associated with the general plan amendment or 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 the conclusions and recommended mitigation measures presented in the IS/MND, the general plan amendment and subsequent long-term operation of the Project would not be detrimental to the health, safety, convenience, or welfare of the public, including nearby residents and workers, and the City's residents at large.

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

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

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

Facts in Support: The project site is a 10-acre portion of a larger 437-acre parcel. Pedestrian and vehicle access exists to the site and no utilities are required for operation of the golf driving range. No additional parking is required, as the users of the golf driving range use the parking facilities at the StoneTree Golf Course and clubhouse. Constraints on the site consist of human-made agricultural drainage ditches which likely represent jurisdictional water features. The original design of the golf driving range maintained 50-foot setbacks from these drainage ditches, as well as fencing to separate the drainage ditches from the golf driving range, to avoid any potential impacts to the ditches.

Adjoining land use consisting primarily of agricultural uses and reclaimed water spray fields. The golf driving range produces little noise, and no sources of light, glare, or odor. The majority of improvements to the site are at-grade and the nearest residential uses are 1,200-feet away and not impacted by the golf driving range due to topography and distance.

A CEQA IS/MND was prepared for the Amendment, and the other development entitlements required for the Project to determine if approval of these requests and the subsequent operation of the Project would result in significant physical impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including nearby residents and employees, and the City's residents at large. In no instance did the IS/MND identify any significant impacts associated with the general plan amendment or 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 the facts discussed above, the portion of the Project site to which the Amendment would apply is considered to be physically suitable to support the Project.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission recommends that the City Council approve the General Plan Amendment as set forth in *Exhibit A*, attached hereto and incorporated herein by reference, to change the General Plan land use designation assigned to a portion of the parcel at APN 157-160-18 from Open Space (OS) to Conservation (CON) subject to the following conditions of approval.

Section 4. Conditions of Approval & Indemnity and Time Limitations

1. The Applicant and any successor in interest shall comply with all mitigation measures specified in the Mitigation Monitoring and Reporting Program prepared and adopted for the Project as incorporated herein by reference.
2. Indemnity and Time Limitations
 - a. The Applicant, property owner 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 action(s) 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 Applicant, the property owner, the City, and/or parties initiating or bringing such action.

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

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

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Chair

Attachments

Exhibit A – General Plan Land Use Map Amendment, a 10-acre portion of APN 157-160-18

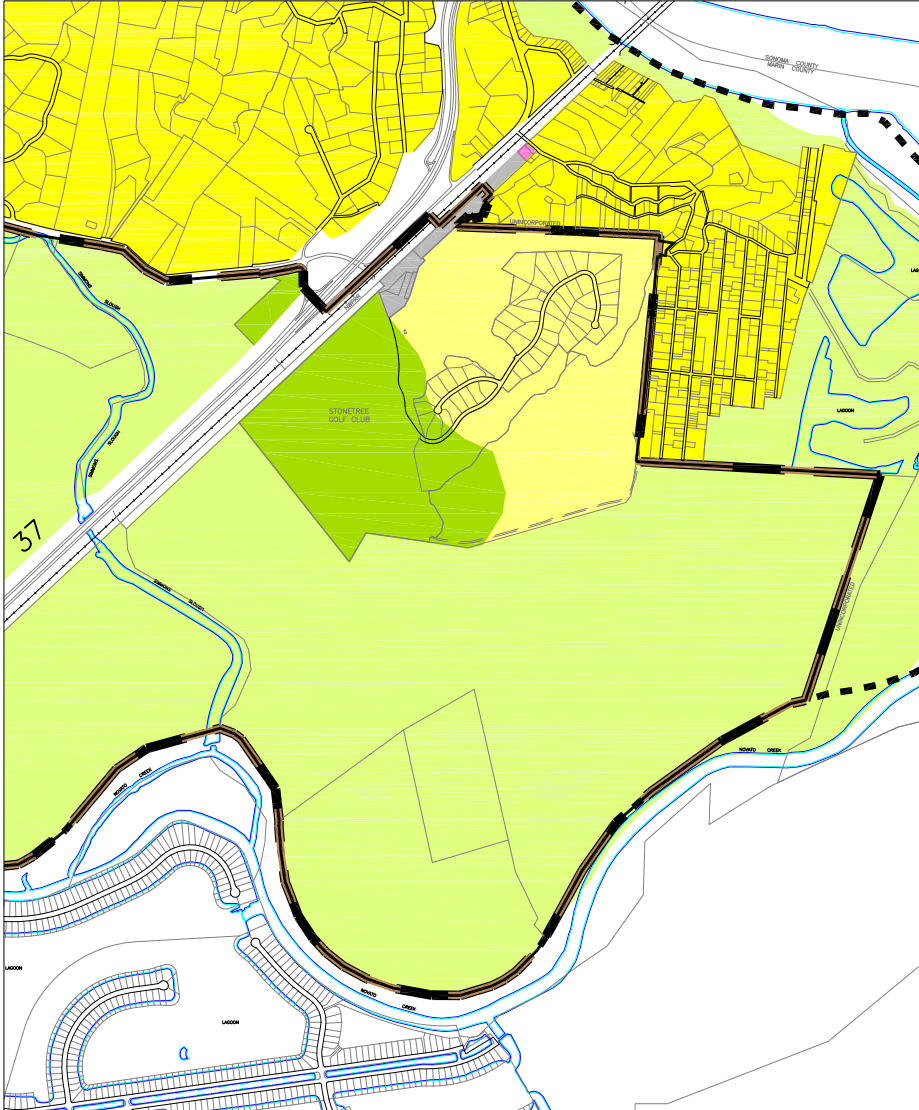
Exhibit B – General Plan Consistency Findings

Reference: P2019-036

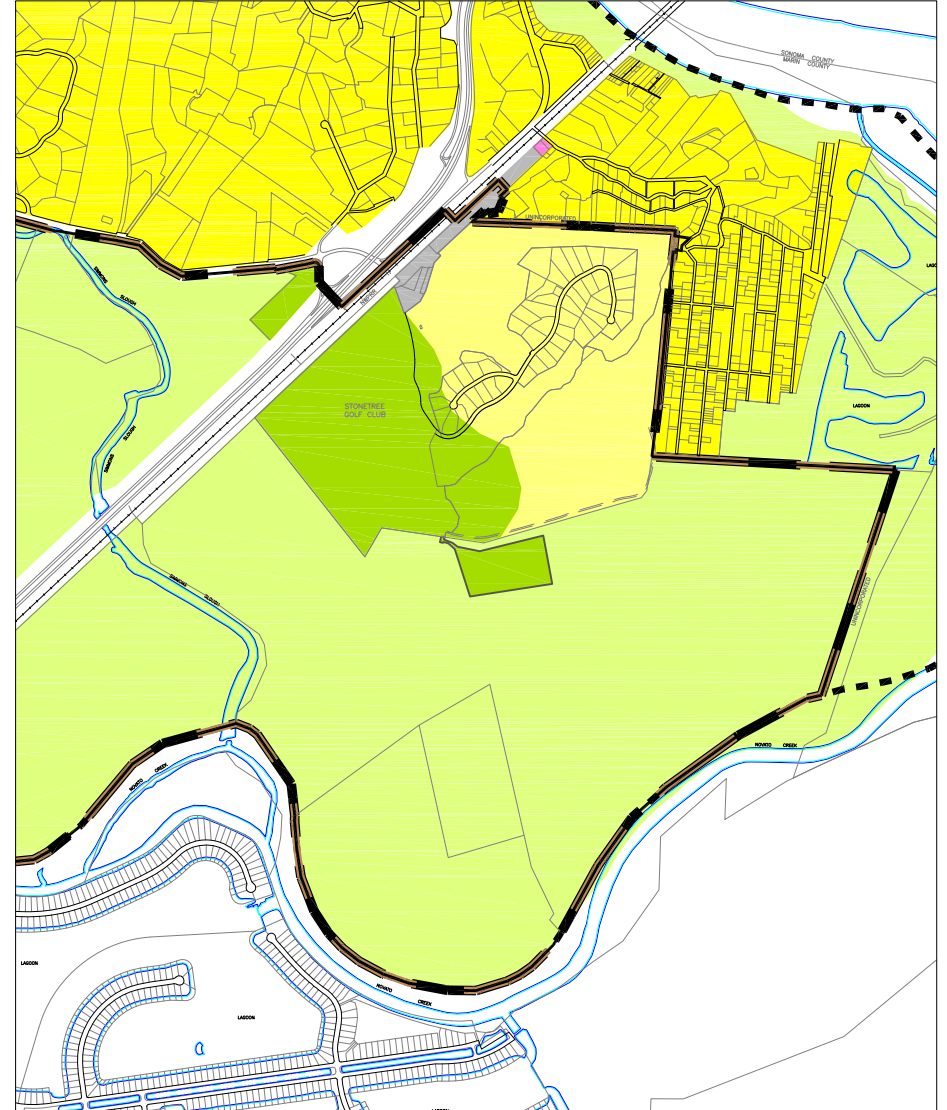
StoneTree Golf Driving Range

General Plan Land Use Map Amendment - Exhibit A

Existing



Proposed



Legend

- Neighborhood Commercial (CN)
- Conservation (CON)
- Light Industrial/Office (LIO)
- Open Space (OS)
- Rural Residential (RR)
- Very Low Density Residential (RVL)

EXHIBIT B

STONETREE DRIVING RANGE

NOVATO GENERAL PLAN CONSISTENCY FINDINGS

The Planning Commission hereby finds that the proposed Project is consistent with the Novato General Plan, including, but not limited to, the following applicable General Plan policies:

1996 NOVATO GENERAL PLAN

LAND USE

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

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

Facts in Support (LU Policies 1 and 2): The Project includes a general plan amendment to change the land use designation applicable to the 10-acre Project site from Open Space (OS) to Conservation (CON), as depicted in Exhibit A. The Project also includes a zoning amendment for the same portion of the project site from OS to CON, to conform with the general plan amendment. The Project includes long-term operation of a golf driving range, an allowable use under the CON land use designation. Upon approval of the project entitlements, the golf driving range use will be consistent with the CON land use designation, and with all other applicable general plan policies, as described in further detail below.

Based on the facts above and the Record as whole, the Project is considered to be consistent with and advance LU Policies 1 and 2.

ENVIRONMENT

EN Policy 10 Wetlands Ecology. Preserve and enhance wetlands.

Facts in Support: Several agricultural drainage ditches are located adjacent to the project site. These are human-made ditches that likely would be regulated by the Regional Water Quality Control Board and California Department of Fish and Wildlife. The original construction of the driving range included a 50-foot setback from these drainage features, and the project design included fencing separating the golf driving range from the drainage features that remains at the

site today. No changes to the driving range are proposed as part of the current Project and the 50-foot setback would be maintained. No changes to the driving range footprint as approved in 2017 would occur. Additionally, only organic fertilizers are used on the driving range and no chemicals are used that could potentially enter the drainage ditches or groundwater system. The potentially jurisdictional drainage features adjacent to the site would be preserved. The Project is considered to be consistent with EN Policy 10.

EN Policy 12 Bayland Area Protection. Regulate development in the Bayland Overlay Zone so that it does not encroach into wetlands or sensitive wildlife habitats, provided that this regulation does not prevent all use of a property. Discourage human activity that damages fisheries, or habitat for birds, fish, or other wildlife.

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

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

Facts in Support (EN Policies 12, 18, 19): The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from continued operation of the driving range, and from construction and operation of future potential uses. As described in Section 3.4 *Biological Resources* of the IS/MND, the project could potentially impact nesting birds. However, with implementation of Mitigation Measure BIO-1, the potential impacts to nesting birds would be reduced to a less than significant level:

MM-BIO-1 Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impact within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted

while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.

Based on the findings of the CEQA IS/MND and the above noted mitigation measure, the Project is considered to be consistent with and advance EN Policies 12, 18 and 19.

EN Policy 23 Native Woodlands. Maintain age and species diversity of native woodlands, and preserve the health of trees and other vegetation wherever feasible.

Facts in Support: There are not native woodlands on the Project site. There are Coast live oak woodlands to the north and adjacent to the Project site. The project will not have an adverse impact on the coast live oak trees, as the driving range is existing and not proposed to expand. The Project is considered to be consistent with EN Policy 23.

SAFETY AND NOISE

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]:

SF Table 3

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

Facts in Support: As described in Section 3.13, *Noise*, of the CEQA IS/MND, the Project would not increase ambient noise levels at the Project site, as the golf driving range is currently existing and operating at the site. Additionally, golf balls are retrieved by hand at the driving range. Sources of noise include the grass mower, golf carts, golf balls being hit, and golfer’s voices. However, noise is not expected to negatively impact adjacent residential uses recognizing the following:

- The driving range is open from sunrise to sunset when many adults are at work or awake.
- The driving range is not open during the nighttime hours when the majority of people are home and typically asleep.

- No public announcement or audio systems are associated with the driving range.
- The nearest residential use to the driving range is located over 1,200 feet away in the Renaissance at StoneTree neighborhood. The driving range is separated from residential uses by a heavily wooded hillside that serves as a buffer. Any noise produced by the driving range will be reduced given this significant distance and obstacles.
- The driving range accommodates 30 golfers at any one time, and golf is not a sport which produces a significant amount of noise.

The Code Enforcement division has not received any complaints related to use of the driving range or noise produced by the use during the almost 3 years the driving range has operated at this location. Additionally, the IS/MND prepared for the project did not identify sources of noise produced by the current operation of the driving range which would result in potentially significant impacts to adjacent residents or land uses.

Based on the observations above, the Project is considered to be consistent with SF Policy 37.

ECONOMIC DEVELOPMENT FISCAL VITALITY

EC Policy 11 Retention of Existing Businesses. Retain, upgrade, and increase the vitality of existing Novato businesses.

Facts in Support: The golf driving range is part of the StoneTree Golf Club (located at 9 StoneTree Lane, immediately north of the Project site) which has been operated by Bay Club since 2014. The golf driving range provides an amenity for users of the StoneTree golf course and club which is standard at many other Bay Club and golf clubs with Marin County. The golf driving range provide an amenity that upgrades and increases the vitality of the existing StoneTree Golf Course. The Project is considered to be consistent with EC Policy 11.

COMMUNITY IDENTITY

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

Facts in Support: The project site is located below a hillside on a flat parcel, and the majority of improvements to the Project site are at-grade. Above-grade development includes a few picnic tables, a storage shed, and 30 golf tee stands. However, the golf driving range and associated improvements are not visible from the residential land uses within the Blackpoint community or Renaissance at StoneTree neighborhoods due to distance and topography. The development is visible from surrounding agricultural uses but does not impede view of the nearby Baylands.

Any potential future development allowed under the CON land use and zoning designations would be analyzed for consistency with this GP Policy. Based on the facts set forth above, and the Record as a whole, the Project to be consistent with CI Policy 1.

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

Facts in Support: Dudek conducted a search of the California Historical Resources Information System at the Northwest Information Center (NWIC) located on the campus of Sonoma State University, and found that there are no historically significant resources within the project site. Review of the NWIC records found that 12 previous cultural resource technical investigations have been conducted with 0.5-mile of the Project area. None of these studies included the Project area.

The Native American Heritage Commission (NAHC) informed Dudek on November 20, 2019 that the Sacred Lands File check was completed with positive results. The NAHC provided Dudek with a list of Native American tribes culturally affiliated with the Project site. Dudek sent letters to each of the contacts requesting information on resources in the area on December 1, 201. No responses were received.

An archeological field survey was conducted by a qualified Dudek archaeologist on November 18, 2019 using standard archeological and paleontological procedures and techniques. The survey covered the 10-acre project site. No archeological or paleontological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) consultation was required for the project. SB 18 requires that local governments involve applicable California Native American tribes in the early stages of land use planning, and requires local governments to contact, provide notice to, refer plans to, and consult with appropriate tribes, as identified by the State of California Native American Heritage Commission (NAHC). As the lead agency for the proposed project, the City of Novato sent an invitation for consultation pursuant to both AB 52 and SB 18, which was received by the Federated Indians of Graton Rancheria (FIGR) on September 16, 2019. The City of Novato did not receive a request for consultation.

The long-term operation of the golf driving range has a low potential for encountering unknown, intact cultural deposits, as no ground-disturbing activities are involved. However, the potential exists for encountering of previously undiscovered archeological resources during construction activities for development of land use associated with the general plan amendment and zoning change of the site from OS to CON. To ensure that impacts to cultural resources remain less-than-significant for potential future projects constructed at the site, the IS/MND prepared for the Project provides Mitigation Measure CUL-1 and Mitigation Measure CUL-2 requiring the following:

MM-CUL-1 In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior's Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR

60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

MM-CUL-2 In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

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

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE AN AMENDMENT TO THE NOVATO ZONING MAP TO CHANGE THE ZONING DESIGNATION APPLIED TO A SITE FROM OPEN SPACE (OS) TO CONSERVATION, MINIMUM AREA 10-ACRES (CON-10) FOR A 10-ACRE PORTION OF APN 157-160-18, AT THE TERMINUS OF TWOWATER TRAIL, SOUTH OF 9 STONETREE LANE

WHEREAS, the City of Novato ("City") received an application (P2019-037) from Bay Club ("Applicant") proposing to amend the zoning map to change the zoning district designation assigned to a portion of the parcel at APN 157-160-18 from Open Space (OS) to Conservation, minimum area 10-acres (CON-10), as depicted in *Exhibit A*; and

WHEREAS, in addition to the application for a Zoning Map Amendment, the Applicant has also submitted applications for general plan map amendment and a use permit; 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/ 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 requested amendment to the General Plan Land Use map, and other development entitlements required for the Project, including a zoning map amendment and a use permit, and operation of the Project itself, to determine if these actions would result in significant physical impacts to the environment; and

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

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did make a recommendation to the City Council regarding the CEQA compliance for the Project and did consider the IS/MND prior to taking action on the Project; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council approve the proposed amendment to the Novato General Plan, Land Use Map LU 1; and

WHEREAS, on August 22, 2019, the Applicant hosted a neighborhood meeting to present the Project to and receive feedback from the public. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Code Section 19.40.070D; and

WHEREAS, public notices describing the Planning Commission's public hearing on the Project, including the General Plan Amendment at issue herein, were sent to all affected property owners within 600 feet of the boundaries of the Project site, and to all property owners in the Blackpoint community and the StoneTree at Renaissance neighborhood, and all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on May 21, 2020; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 8, 2020, to consider and receive public testimony on the Project, including the zoning map Amendment at issue herein; and

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings (“Record”) upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, 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 IS/MND, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings, the Project, and the Project's associated development entitlement requests (7) all other matters of common knowledge to the City decision maker including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

Section 3. Findings

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

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

Facts in Support: The intent of the proposed zoning map amendment is to allow for continued long-term operation of an existing golf driving range. The proposed rezone would be consistent with the CON general plan land use designation.

The proposed long-term operation of a golf driving range at this location has been reviewed against applicable policies of the Novato General Plan. Based on this review, the amendment is considered to be consistent with all applicable policies of the General Plan, as documented in *Exhibit B* attached hereto and incorporated herein by reference. *Exhibit B* lists each applicable policy of the General Plan and details facts supporting the Project's consistency therewith.

Based on the facts above, the proposed zoning map amendment meets Finding No. 1.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the city;
3. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines;

Facts in Support (Findings 2 and 3): Approval of the amendment would result in the assignment of the Conservation (CON) land use designation to a portion of the parcel. This action is intended to support the operation of the Project.

A CEQA IS/MND was prepared for the general plan amendment and the other required project entitlements to determine if approval of these requests and subsequent continued operation of the project would result in significant impacts to the environment. This analysis included the review of various technical topics address public interest, health, safety, convenience, and welfare, including nearby residents and employees, and the City's residents at large. In no instance did the IS/MND identify any significant impacts associated with the general plan amendment or 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 the conclusions and recommended mitigation measures presented in the IS/MND, the zoning map amendment and subsequent long-term operation of the Project would not be detrimental to the health, safety, convenience, or welfare of the public, including nearby residents and workers, and the City's residents at large. The zoning map amendment is considered to be consistent with Findings No. 2 and No. 3.

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

Facts in Support: The project site is a 10-acre portion of a larger 437-acre parcel. Pedestrian and vehicle access exists to the site and no utilities are required for operation of the golf driving range. No additional parking is required, as the users of the golf driving range use the parking facilities at the StoneTree Golf Course and clubhouse. Constraints on the site consists of human-made agricultural drainage ditches which likely represent jurisdictional water features. The original design of the golf driving range maintained 50-foot setbacks from these drainage ditches, as well as fencing to separate the drainage ditches from the golf driving range, to avoid any potential impacts to the ditches.

Adjoining land use consisting primarily of agricultural uses and reclaimed water spray fields. The golf driving range produces little noise, and no sources of light, glare, or odor. The majority of improvements to the site are at-grade and the nearest residential uses are 1,200-feet away and not impacted by the golf driving range due to topography and distance.

A CEQA IS/MND was prepared for the Amendment, and the other development entitlements required for the Project to determine if approval of these requests and the subsequent operation of the Project would result in significant physical impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including nearby residents and employees, and the City's residents at large. In no instance did the IS/MND identify any significant impacts associated with the general plan amendment or 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 the facts discussed above, the portion of the Parcel to which the Zoning Amendment would apply is considered to be physically suitable to support the Project.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the proposed zoning map amendment as set for in *Exhibit A*, attached hereto and incorporated herein by reference.

Section 4. Conditions of Approval & Indemnity and Time Limitations

1. The Applicant and any successor in interest shall comply with all mitigation measures specified in the Mitigation Monitoring and Reporting Program prepared and adopted for the Project as incorporated herein by reference.
2. Indemnity and Time Limitations
 - a. The Applicant, property owner 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 action(s) 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 Applicant, the property owner, the City, and/or parties initiating or bringing such action.

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

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

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Chair

Attachments

Exhibit A – Zoning Map Amendment, a 10-acre portion of APN 157-160-18

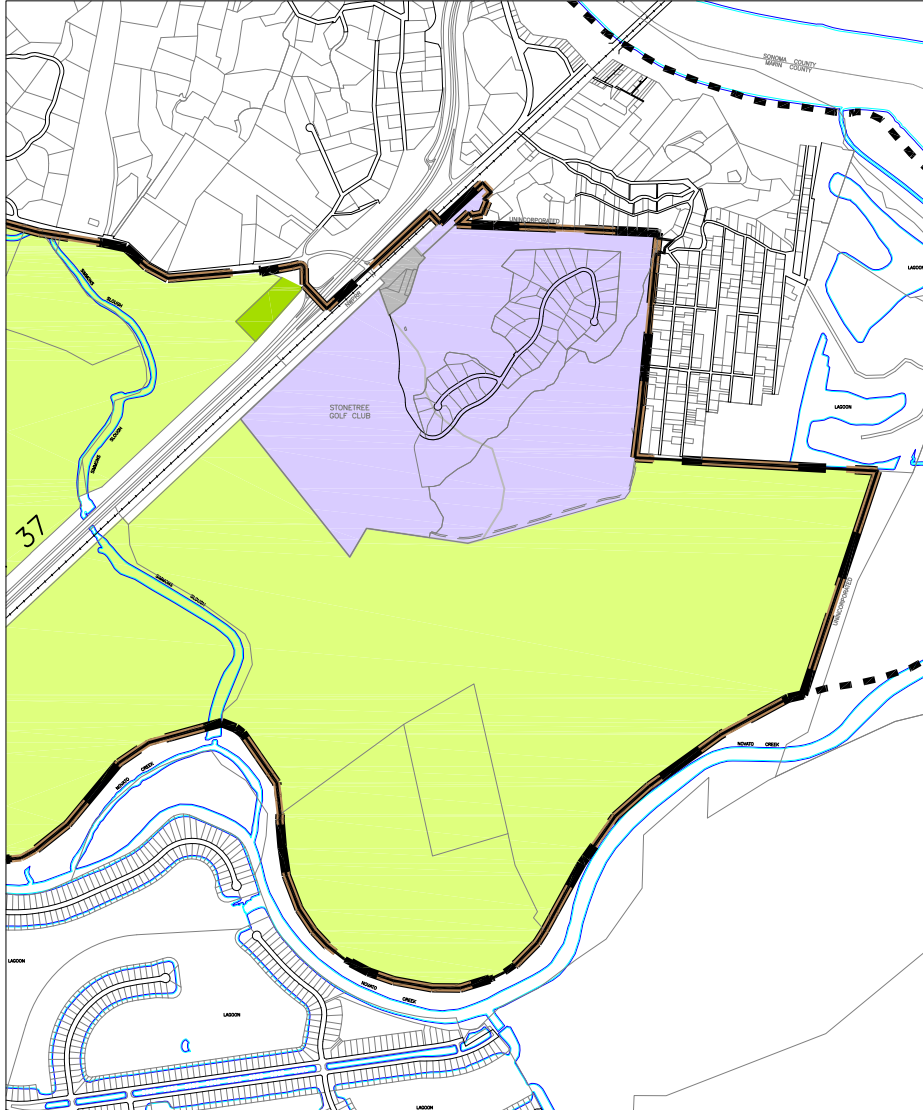
Exhibit B – General Plan Consistency Findings

Reference: P2019-037

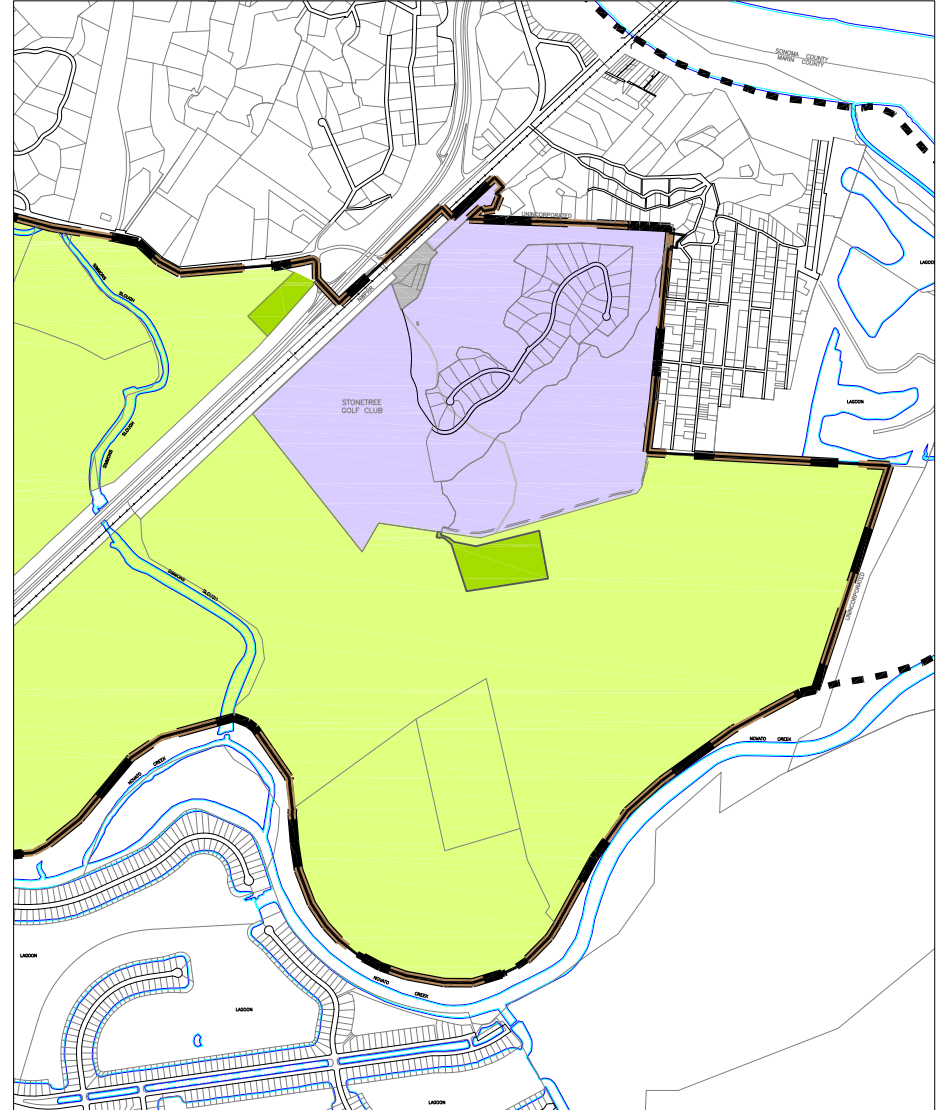
StoneTree Golf Driving Range

Zoning Map Amendment - Exhibit A

Existing



Proposed



Legend

- Conservation (CON-10)
- Light Industrial/Office (LIO)
- Open Space (OS)
- Planned District (PD)

EXHIBIT B

STONETREE DRIVING RANGE

NOVATO GENERAL PLAN CONSISTENCY FINDINGS

The Planning Commission hereby finds that the proposed Project is consistent with the Novato General Plan, including, but not limited to, the following applicable General Plan policies:

1996 NOVATO GENERAL PLAN

LAND USE

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

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

Facts in Support (LU Policies 1 and 2): The Project includes a general plan amendment to change the land use designation applicable to the 10-acre Project site from Open Space (OS) to Conservation (CON), as depicted in Exhibit A. The Project also includes a zoning amendment for the same portion of the project site from OS to CON, to conform with the general plan amendment. The Project includes long-term operation of a golf driving range, an allowable use under the CON land use designation. Upon approval of the project entitlements, the golf driving range use will be consistent with the CON land use designation, and with all other applicable general plan policies, as described in further detail below.

Based on the facts above and the Record as whole, the Project is considered to be consistent with and advance LU Policies 1 and 2.

ENVIRONMENT

EN Policy 10 Wetlands Ecology. Preserve and enhance wetlands.

Facts in Support: Several agricultural drainage ditches are located adjacent to the project site. These are human-made ditches that likely would be regulated by the Regional Water Quality Control Board and California Department of Fish and Wildlife. The original construction of the driving range included a 50-foot setback from these drainage features, and the project design included fencing separating the golf driving range from the drainage features that remains at the

site today. No changes to the driving range are proposed as part of the current Project and the 50-foot setback would be maintained. No changes to the driving range footprint as approved in 2017 would occur. Additionally, only organic fertilizers are used on the driving range and no chemicals are used that could potentially enter the drainage ditches or groundwater system. The potentially jurisdictional drainage features adjacent to the site would be preserved. The Project is considered to be consistent with EN Policy 10.

EN Policy 12 Bayland Area Protection. Regulate development in the Bayland Overlay Zone so that it does not encroach into wetlands or sensitive wildlife habitats, provided that this regulation does not prevent all use of a property. Discourage human activity that damages fisheries, or habitat for birds, fish, or other wildlife.

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

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

Facts in Support (EN Policies 12, 18, 19): The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from continued operation of the driving range, and from construction and operation of future potential uses. As described in Section 3.4 *Biological Resources* of the IS/MND, the project could potentially impact nesting birds. However, with implementation of Mitigation Measure BIO-1, the potential impacts to nesting birds would be reduced to a less than significant level:

MM-BIO-1 Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impact within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted

while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.

Based on the findings of the CEQA IS/MND and the above noted mitigation measure, the Project is considered to be consistent with and advance EN Policies 12, 18 and 19.

EN Policy 23 Native Woodlands. Maintain age and species diversity of native woodlands, and preserve the health of trees and other vegetation wherever feasible.

Facts in Support: There are not native woodlands on the Project site. There are Coast live oak woodlands to the north and adjacent to the Project site. The project will not have an adverse impact on the coast live oak trees, as the driving range is existing and not proposed to expand. The Project is considered to be consistent with EN Policy 23.

SAFETY AND NOISE

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]:

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Office Building, Business, Commercial and Professional	Up to 70 dB
Industrial, Manufacturing, Utilities	Up to 70 dB

Facts in Support: As described in Section 3.13, *Noise*, of the CEQA IS/MND, the Project would not increase ambient noise levels at the Project site, as the golf driving range is currently existing and operating at the site. Additionally, golf balls are retrieved by hand at the driving range. Sources of noise include the grass mower, golf carts, golf balls being hit, and golfer’s voices. However, noise is not expected to negatively impact adjacent residential uses recognizing the following:

- The driving range is open from sunrise to sunset when many adults are at work or awake.
- The driving range is not open during the nighttime hours when the majority of people are home and typically asleep.

- No public announcement or audio systems are associated with the driving range.
- The nearest residential use to the driving range is located over 1,200 feet away in the Renaissance at StoneTree neighborhood. The driving range is separated from residential uses by a heavily wooded hillside that serves as a buffer. Any noise produced by the driving range will be reduced given this significant distance and obstacles.
- The driving range accommodates 30 golfers at any one time, and golf is not a sport which produces a significant amount of noise.

The Code Enforcement division has not received any complaints related to use of the driving range or noise produced by the use during the almost 3 years the driving range has operated at this location. Additionally, the IS/MND prepared for the project did not identify sources of noise produced by the current operation of the driving range which would result in potentially significant impacts to adjacent residents or land uses.

Based on the observations above, the Project is considered to be consistent with SF Policy 37.

ECONOMIC DEVELOPMENT FISCAL VITALITY

EC Policy 11 Retention of Existing Businesses. Retain, upgrade, and increase the vitality of existing Novato businesses.

Facts in Support: The golf driving range is part of the StoneTree Golf Club (located at 9 StoneTree Lane, immediately north of the Project site) which has been operated by Bay Club since 2014. The golf driving range provides an amenity for users of the StoneTree golf course and club which is standard at many other Bay Club and golf clubs with Marin County. The golf driving range provide an amenity that upgrades and increases the vitality of the existing StoneTree Golf Course. The Project is considered to be consistent with EC Policy 11.

COMMUNITY IDENTITY

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

Facts in Support: The project site is located below a hillside on a flat parcel, and the majority of improvements to the Project site are at-grade. Above-grade development includes a few picnic tables, a storage shed, and 30 golf tee stands. However, the golf driving range and associated improvements are not visible from the residential land uses within the Blackpoint community or Renaissance at StoneTree neighborhoods due to distance and topography. The development is visible from surrounding agricultural uses but does not impede view of the nearby Baylands.

Any potential future development allowed under the CON land use and zoning designations would be analyzed for consistency with this GP Policy. Based on the facts set forth above, and the Record as a whole, the Project to be consistent with CI Policy 1.

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

Facts in Support: Dudek conducted a search of the California Historical Resources Information System at the Northwest Information Center (NWIC) located on the campus of Sonoma State University, and found that there are no historically significant resources within the project site. Review of the NWIC records found that 12 previous cultural resource technical investigations have been conducted with 0.5-mile of the Project area. None of these studies included the Project area.

The Native American Heritage Commission (NAHC) informed Dudek on November 20, 2019 that the Sacred Lands File check was completed with positive results. The NAHC provided Dudek with a list of Native American tribes culturally affiliated with the Project site. Dudek sent letters to each of the contacts requesting information on resources in the area on December 1, 2019. No responses were received.

An archeological field survey was conducted by a qualified Dudek archaeologist on November 18, 2019 using standard archeological and paleontological procedures and techniques. The survey covered the 10-acre project site. No archeological or paleontological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) consultation was required for the project. SB 18 requires that local governments involve applicable California Native American tribes in the early stages of land use planning, and requires local governments to contact, provide notice to, refer plans to, and consult with appropriate tribes, as identified by the State of California Native American Heritage Commission (NAHC). As the lead agency for the proposed project, the City of Novato sent an invitation for consultation pursuant to both AB 52 and SB 18, which was received by the Federated Indians of Graton Rancheria (FIGR) on September 16, 2019. The City of Novato did not receive a request for consultation.

The long-term operation of the golf driving range has a low potential for encountering unknown, intact cultural deposits, as no ground-disturbing activities are involved. However, the potential exists for encountering of previously undiscovered archeological resources during construction activities for development of land use associated with the general plan amendment and zoning change of the site from OS to CON. To ensure that impacts to cultural resources remain less-than-significant for potential future projects constructed at the site, the IS/MND prepared for the Project provides Mitigation Measure CUL-1 and Mitigation Measure CUL-2 requiring the following:

MM-CUL-1 In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior's Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR

60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

MM-CUL-2 In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

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

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. _____

RESOLUTION OF THE NOVATO PLANNING COMMISSION
RECOMMENDING THE NOVATO CITY COUNCIL APPROVE
A USE PERMIT TO ALLOW THE LONG-TERM OPERATION
OF AN EXISTING GOLF DRIVING RANGE ON LAND SOUTH
OF THE STONETREE GOLF CLUB, A PORTION OF APN 157-
160-18

WHEREAS, the City of Novato (“City”) received an application (P2019-051) from Bay Club (“Applicant”) requesting a use permit to allow the continued long-term operation of an existing golf driving range with the CON zoning district on a 10-acre portion of a site identified as APN 157-160-18;

WHEREAS, the Applicant is requesting a use permit pursuant to Novato Municipal Code Section 19.42.050, which establishes the procedures for approving use permits for activities and uses which may be acceptable in the applicable zoning district if compatible with adjoining land uses;

WHEREAS, the Zoning Administrator referred the use permit application for the golf driving range to the Planning Commission in compliance with Section 19.40.030 – Concurrent Permit Processing;

WHEREAS, on August 22, 2019, the project applicant hosted a neighborhood meeting to present the Project to and receive feedback from the public. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Code Section 19.40.070D; 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/ 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 requested amendment to the General Plan Land Use map, and other development entitlements required for the Project, including a zoning map amendment and a use permit, and operation of the Project itself, to determine if these actions would result in significant physical impacts to the environment; and

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

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did make a recommendation to the City Council regarding the CEQA compliance for the Project and did consider the IS/MND prior to taking action on the Project; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council approve the proposed amendment to the Novato General Plan, Land Use Map LU 1; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council approve the proposed amendment to the Novato Zoning Map; and

WHEREAS, notices describing the Planning Commission's public hearing on the proposed use permit were sent to all affected property owners within 600-feet of the project site and to all property owners located in the Black Point community and StoneTree at Renaissance neighborhood, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the county clerk of the County of Marin, and all persons requesting noticing pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation on May 21, 2020; and

WHEREAS, the Planning Commission held a duly noticed public hearing on June 8, 2020, to consider and receive public testimony on the Project, including the use permit at issue herein; and

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its decision includes, but is not limited to: (1) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the golf driving range, (2) the evidence, facts, findings and other determinations set forth in this resolution, (3) the City of Novato 1996 General Plan and its certified final EIR and the Novato Municipal Code, (4) all designs, plans, studies, data and correspondence submitted to the City in connection with the golf driving range (5) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City (6) 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. Use Permit Findings

The Planning Commission hereby makes the following findings as required by Section 19.42.050.E. of the Novato Municipal Code with respect to the use permit at issue herein based on the evidence contained in the Record which is herein incorporated by reference:

1. The proposed use is consistent with the General Plan and any applicable specific plan;

Facts in Support: The proposed use is the long-term operation of an existing golf driving range. Continued operation of the driving range at this location has been reviewed against applicable policies of the Novato General Plan. Based on this review, the amendment is considered to be consistent with and advance all applicable policies of the General Plan, as documented in *Exhibit A* attached hereto and incorporated herein by reference. *Exhibit A* list each applicable policy of the General Plan and details facts supporting the Project's consistency therewith.

2. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;

Facts in Support: The StoneTree golf driving range is a private facility associated with the StoneTree golf course and can accommodate up to 30 golfers at any one time. As discussed above, 'Golf Courses and Country Clubs' may be allowed in the CON zoning district with an approved use permit, subject to demonstrating compliance with the standards and findings contained in the zoning ordinance. A golf driving range is included in the NMC definition of 'Golf Courses and Country Clubs' and is therefore an allowable use within the CON zoning district. The proposed operational components of the driving range discussed above under 'Project Description' in this staff report complies with all applicable provisions of the Zoning Ordinance. Additionally, there is no master plan or precise development plan applicable to the site. The project is considered consistent with Finding No. 2.

3. The establishment, maintenance, or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;
4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

Facts in Support (Findings 3 and 4): The applicant has designed the proposed project to ensure the establishment, maintenance, or operation of the golf driving range would not adversely impacts neighboring residents are employees working near the driving range use. Additionally, the project does include any odor producing activities, nor does not include any lighting that would result in any lighting and glare impacts.

Noise

As previously stated, golf balls are retrieved by hand at the driving range. Sources of noise include the grass mower, golf carts, golf balls being hit, and golfer's voices. However, noise is not expected to negatively impact adjacent residential uses recognizing the following:

- The driving range is open from sunrise to sunset when many adults are at work or awake.
- The driving range is not open during the nighttime hours when the majority of people are home and typically asleep.
- No public announcement or audio systems are associated with the driving range.
- The nearest residential use to the driving range is located over 1,200 feet away in the Renaissance at StoneTree neighborhood. The driving range is separated from residential uses by a heavily wooded hillside that serves as a buffer. Any noise produced by the driving range will be reduced given this significant distance and obstacles.
- The driving range accommodates 30 golfers at any one time, and golf is not a sport which produces a significant amount of noise.

The Code Enforcement division has not received any complaints related to use of the driving range or noise produced by the use during the almost 3 years the driving range has operated at this location. Additionally, the IS/MND prepared for the project did not identify sources of noise produced by the current operation of the driving range which would result in potentially significant impacts to adjacent residents or land uses.

Based on the observations above, the continued operation of the driving range will not result in any public health, safety, or welfare concerns. The Project is considered consistent with Findings 3 and 4.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

Facts in Support: The driving range is located within an agricultural field and is approximately 1,200 feet from the nearest residence in the Renaissance at StoneTree neighborhood, and approximately 2,500 feet from the nearest residence in the Blackpoint community. The driving range is separated from residential uses by a heavily wooded hillside that screens the range from view. Surrounding uses including the StoneTree golf course, agriculture grazing and spray fields for reclaimed water by the Novato Sanitary District.

Given the operating times and characteristics of the driving range, the continued use will not generate adverse impacts leading to the disturbance of surrounding residential neighborhoods. Similarly, adjacent agricultural land uses would not be disturbed by continued operation of the driving range. The operation of a driving range is considered compatible with existing and potential future land uses. As discussed above, the driving range does not produce any lighting and glare, odor, or noise impacts and will operate in a manner that is compatible with adjacent

agricultural uses. Based on these observations, the Project is considered consistent with Finding No. 5.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve a use permit to allow a long-term operation of an existing golf driving range, based on the findings set forth herein and subject to the conditions of approval below:

Section 5. Conditions of Approval and Time Limitations

The Planning Commission hereby applies the following conditions of approval to the use permit:

Initial Study/Mitigated Negative Declaration Mitigation Measures:

1. Mitigation Measure BIO-1: Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impact within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.
2. Mitigation Measure CUL-1: In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior's Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR 60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.
3. Mitigation Measure CUL-2: In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or

disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

4. Mitigation Measure GEO-1: Prior to the commencement of any grading activity, the applicant shall retain a qualified paleontologist, subject to the review and approval of the lead agency to ensure the implementation of a paleontological monitoring program. The Society of Vertebrate Paleontology (SVP 2010) defines a qualified paleontologist as having:

- A graduate degree in paleontology or geology, and/or a publication record in peer reviewed journals; and demonstrated competence in field techniques, preparation, identification, curation, and reporting in the state or geologic province in which the project occurs. An advanced degree is less important than demonstrated competence and regional experience.
- At least two full years professional experience as assistant to a Project Paleontologist with administration and project management experience; supported by a list of projects and referral contacts.
- Proficiency in recognizing fossils in the field and determining significance.
- Expertise in local geology, stratigraphy, and biostratigraphy.
- Experience collecting vertebrate fossils in the field.

The qualified paleontologist shall attend, or call in to, any pre-construction meetings and manage the paleontological monitor(s) if he or she is not doing the monitoring. A paleontological monitor should be on site during all excavations below the depth of previously disturbed sediments. The SVP (2010) defines a qualified paleontological monitor as having:

- BS or BA degree in geology or paleontology and 1-year experience monitoring in the state or geologic province of the specific project. An associate degree and/or demonstrated experience showing ability to recognize fossils in a biostratigraphic context and recover vertebrate fossils in the field may be substituted for a degree. An undergraduate degree in geology or paleontology is preferable, but is less important than documented experience performing paleontological monitoring, or

- AS or AA in geology, paleontology, or biology and demonstrated 2-years experience collecting and salvaging fossil materials in the state or geologic province of the specific project, or
- Enrollment in upper division classes pursuing a degree in the fields of geology or paleontology and 2 years of monitoring experience in the state or geologic province of the specific project.

Monitors must demonstrate proficiency in recognizing various types of fossils, in collection methods, and in other paleontological field techniques.

The paleontological monitor shall monitor construction excavations below a depth of 5 feet in areas underlain by Quaternary alluvium and all excavations in areas underlain by elevated Quaternary alluvium as determined by the Qualified Paleontologist based on the construction plans. The paleontological monitor shall be equipped with necessary tools for the collection of fossils and associated geological and paleontological data. The monitor shall complete daily logs detailing the day's excavation activities and pertinent geological and paleontological data. In the event that paleontological resources (e.g., fossils) are unearthed during grading, the paleontological monitor will temporarily halt and/or divert grading activity to allow recovery of paleontological resources. The area of discovery will be roped off with a 50-foot radius buffer. Once documentation and collection of the find is completed, the monitor will remove the rope and allow grading to recommence in the area of the find.

Following the paleontological monitoring program, a final monitoring report shall be submitted to the City, for approval. The report should summarize the monitoring program and include geological observations and any paleontological resources recovered during paleontological monitoring for the project.

The following conditions of approval shall be met to the satisfaction of the City of Novato:

5. The Applicant shall maintain the existing split rail fence to delineate a 50-foot buffer from drainage ditches along the periphery of the golf driving range. Vehicles and equipment shall not enter the 50-foot buffer area. Golf balls shall be retrieved by hand within the buffer areas.
6. The hours of operation of the golf driving range shall be 6 AM to sunset.
7. Maintenance of the golf driving range shall be limited to mowing the driving range, applying organic fertilizer to the landing area, and collecting golf balls by hand. No chemicals or chemical fertilizers shall be used on the driving range.
8. On-site parking shall be limited to shuttle golf carts and golf driving range maintenance vehicles during the approved hours of operation.

9. The golf driving range shall not be illuminated.

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

10. The irrigated turf portion of the golf driving range shall make use of StoneTree Golf Club's existing recycled water system. The NSD's reclamation water cannot be used to irrigate this project. The project will be required to prove that there are no "Cross Over Water Connections" from the recycled water and reclamation water systems.
11. The access to the project parcel site through the golf course property is a narrow concrete roadway that terminates at the gate to the staging area for the reclamation ranch operations. The access roadway is also the NSD's only access to a drainage pump station and remaining reclamation fields. At no time can the access to the remaining reclamation parcels and drainage pump station be hindered.
12. All golf carts taking access to the golf driving range must be parked on the project site. No offsite parking of vehicles shall be allowed.
13. The golf driving range shall not hinder or reduce the current drainage flows to the NSD's storm water pump station. If damage to the drainage system occurs, the project will restore the drainage system to its original configuration and flow volumes.
14. The Applicant shall install new cattle fencing and gating systems to isolate the golf driving range from the ranching operation and to insure cattle and golfers remain safe from one and other.
15. The potable water system that is supplying the reclamation parcels is for the watering of ranch cattle. This system is metered and paid for by the ranch tenant. If the project requires potable water on site, it must be constructed and metered for the golf course separately.

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

16. The District currently provides recycled water service to the StoneTree Golf Club. The Applicant must submit improvement plans to the District for incorporation of the golf driving range into the existing Recycled Water Permit for this site. The improvement plans shall be submitted to and accepted by the District prior to installation and operation of the golf driving range.

17. Indemnity and Time Limitations

- a. The Applicant 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 Applicant, the City, and/or parties initiating or bringing such action.

- b. The Applicant 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 Applicant 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 Applicant 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 Applicant 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 Applicant 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 Applicant.
- d. The Applicant and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90 day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to

Government Code Section 66020(a), has begun. If you fail to file a protest within this 90 day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

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

AYES:

NOES:

ABSTAIN:

ABSENT:

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

Chair

Attachments

Exhibit A – General Plan Consistency Findings

Reference: P2019-051

EXHIBIT A

STONETREE DRIVING RANGE

NOVATO GENERAL PLAN CONSISTENCY FINDINGS

The Planning Commission hereby finds that the proposed Project is consistent with the Novato General Plan, including, but not limited to, the following applicable General Plan policies:

1996 NOVATO GENERAL PLAN

LAND USE

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

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

Facts in Support (LU Policies 1 and 2): The Project includes a general plan amendment to change the land use designation applicable to the 10-acre Project site from Open Space (OS) to Conservation (CON), as depicted in Exhibit A. The Project also includes a zoning amendment for the same portion of the project site from OS to CON, to conform with the general plan amendment. The Project includes long-term operation of a golf driving range, an allowable use under the CON land use designation. Upon approval of the project entitlements, the golf driving range use will be consistent with the CON land use designation, and with all other applicable general plan policies, as described in further detail below.

Based on the facts above and the Record as whole, the Project is considered to be consistent with and advance LU Policies 1 and 2.

ENVIRONMENT

EN Policy 10 Wetlands Ecology. Preserve and enhance wetlands.

Facts in Support: Several agricultural drainage ditches are located adjacent to the project site. These are human-made ditches that likely would be regulated by the Regional Water Quality Control Board and California Department of Fish and Wildlife. The original construction of the driving range included a 50-foot setback from these drainage features, and the project design included fencing separating the golf driving range from the drainage features that remains at the

site today. No changes to the driving range are proposed as part of the current Project and the 50-foot setback would be maintained. No changes to the driving range footprint as approved in 2017 would occur. Additionally, only organic fertilizers are used on the driving range and no chemicals are used that could potentially enter the drainage ditches or groundwater system. The potentially jurisdictional drainage features adjacent to the site would be preserved. The Project is considered to be consistent with EN Policy 10.

EN Policy 12 Bayland Area Protection. Regulate development in the Bayland Overlay Zone so that it does not encroach into wetlands or sensitive wildlife habitats, provided that this regulation does not prevent all use of a property. Discourage human activity that damages fisheries, or habitat for birds, fish, or other wildlife.

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

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

Facts in Support (EN Policies 12, 18, 19): The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from continued operation of the driving range, and from construction and operation of future potential uses. As described in Section 3.4 *Biological Resources* of the IS/MND, the project could potentially impact nesting birds. However, with implementation of Mitigation Measure BIO-1, the potential impacts to nesting birds would be reduced to a less than significant level:

MM-BIO-1 Grading and earthwork activities (including disturbances to native and non-native vegetation, structures, and substrates) will take place outside of the bird breeding/nesting season, which generally is between February 15 and August 31. If these activities cannot feasibly occur between September 1 and February 14, the applicant shall arrange for focused nesting bird surveys to be completed by a qualified biologist to determine if active nests of bird species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the area of impact within 300 feet (500 feet for raptors) of the area of impact. Surveys shall be conducted within the week prior to the initiation of construction. If nesting birds are detected, clearing and construction shall be postponed or halted, at the discretion of the biologist, until the nest is vacated and juveniles have fledged, and there is no evidence of a second attempt at nesting, as determined by the biologist. Based on the species present, surrounding habitat, and existing environmental setting/level of disturbance, the biologist may establish an avoidance buffer around occupied nests, within which no construction or ground-disturbing activities would be conducted

while the nest(s) were still active. The extent of the buffer would be established at the discretion of the biologist.

Based on the findings of the CEQA IS/MND and the above noted mitigation measure, the Project is considered to be consistent with and advance EN Policies 12, 18 and 19.

EN Policy 23 Native Woodlands. Maintain age and species diversity of native woodlands, and preserve the health of trees and other vegetation wherever feasible.

Facts in Support: There are not native woodlands on the Project site. There are Coast live oak woodlands to the north and adjacent to the Project site. The project will not have an adverse impact on the coast live oak trees, as the driving range is existing and not proposed to expand. The Project is considered to be consistent with EN Policy 23.

SAFETY AND NOISE

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]:

SF Table 3

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

Facts in Support: As described in Section 3.13, *Noise*, of the CEQA IS/MND, the Project would not increase ambient noise levels at the Project site, as the golf driving range is currently existing and operating at the site. Additionally, golf balls are retrieved by hand at the driving range. Sources of noise include the grass mower, golf carts, golf balls being hit, and golfer’s voices. However, noise is not expected to negatively impact adjacent residential uses recognizing the following:

- The driving range is open from sunrise to sunset when many adults are at work or awake.
- The driving range is not open during the nighttime hours when the majority of people are home and typically asleep.

- No public announcement or audio systems are associated with the driving range.
- The nearest residential use to the driving range is located over 1,200 feet away in the Renaissance at StoneTree neighborhood. The driving range is separated from residential uses by a heavily wooded hillside that serves as a buffer. Any noise produced by the driving range will be reduced given this significant distance and obstacles.
- The driving range accommodates 30 golfers at any one time, and golf is not a sport which produces a significant amount of noise.

The Code Enforcement division has not received any complaints related to use of the driving range or noise produced by the use during the almost 3 years the driving range has operated at this location. Additionally, the IS/MND prepared for the project did not identify sources of noise produced by the current operation of the driving range which would result in potentially significant impacts to adjacent residents or land uses.

Based on the observations above, the Project is considered to be consistent with SF Policy 37.

ECONOMIC DEVELOPMENT FISCAL VITALITY

EC Policy 11 Retention of Existing Businesses. Retain, upgrade, and increase the vitality of existing Novato businesses.

Facts in Support: The golf driving range is part of the StoneTree Golf Club (located at 9 StoneTree Lane, immediately north of the Project site) which has been operated by Bay Club since 2014. The golf driving range provides an amenity for users of the StoneTree golf course and club which is standard at many other Bay Club and golf clubs with Marin County. The golf driving range provide an amenity that upgrades and increases the vitality of the existing StoneTree Golf Course. The Project is considered to be consistent with EC Policy 11.

COMMUNITY IDENTITY

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

Facts in Support: The project site is located below a hillside on a flat parcel, and the majority of improvements to the Project site are at-grade. Above-grade development includes a few picnic tables, a storage shed, and 30 golf tee stands. However, the golf driving range and associated improvements are not visible from the residential land uses within the Blackpoint community or Renaissance at StoneTree neighborhoods due to distance and topography. The development is visible from surrounding agricultural uses but does not impede view of the nearby Baylands.

Any potential future development allowed under the CON land use and zoning designations would be analyzed for consistency with this GP Policy. Based on the facts set forth above, and the Record as a whole, the Project to be consistent with CI Policy 1.

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

Facts in Support: Dudek conducted a search of the California Historical Resources Information System at the Northwest Information Center (NWIC) located on the campus of Sonoma State University, and found that there are no historically significant resources within the project site. Review of the NWIC records found that 12 previous cultural resource technical investigations have been conducted with 0.5-mile of the Project area. None of these studies included the Project area.

The Native American Heritage Commission (NAHC) informed Dudek on November 20, 2019 that the Sacred Lands File check was completed with positive results. The NAHC provided Dudek with a list of Native American tribes culturally affiliated with the Project site. Dudek sent letters to each of the contacts requesting information on resources in the area on December 1, 201. No responses were received.

An archeological field survey was conducted by a qualified Dudek archaeologist on November 18, 2019 using standard archeological and paleontological procedures and techniques. The survey covered the 10-acre project site. No archeological or paleontological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) consultation was required for the project. SB 18 requires that local governments involve applicable California Native American tribes in the early stages of land use planning, and requires local governments to contact, provide notice to, refer plans to, and consult with appropriate tribes, as identified by the State of California Native American Heritage Commission (NAHC). As the lead agency for the proposed project, the City of Novato sent an invitation for consultation pursuant to both AB 52 and SB 18, which was received by the Federated Indians of Graton Rancheria (FIGR) on September 16, 2019. The City of Novato did not receive a request for consultation.

The long-term operation of the golf driving range has a low potential for encountering unknown, intact cultural deposits, as no ground-disturbing activities are involved. However, the potential exists for encountering of previously undiscovered archeological resources during construction activities for development of land use associated with the general plan amendment and zoning change of the site from OS to CON. To ensure that impacts to cultural resources remain less-than-significant for potential future projects constructed at the site, the IS/MND prepared for the Project provides Mitigation Measure CUL-1 and Mitigation Measure CUL-2 requiring the following:

MM-CUL-1 In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all earth-disturbing work occurring in the vicinity (generally within 100 feet of the find) shall immediately stop, and a qualified professional archaeologist, meeting the Secretary of Interior's Professional Qualification Standards, shall be notified regarding the discovery. The archaeologist shall evaluate the significance of the find and determine whether additional study is warranted. If the discovery proves significant under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) or Section 106 of the National Historic Preservation Act (36 CFR

60.4), additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

MM-CUL-2 In accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, the City of Novato shall ensure earth-disturbing work in the vicinity of the find (generally 100 feet is sufficient) should immediately halt, and the county coroner is notified of the discovery. The coroner will provide a determination within 48 hours of notification. No further excavation or disturbance of the identified material, or any area reasonably suspected to overlie additional remains, shall occur until a determination has been made. If the county coroner determines that the remains are, or are believed to be, Native American, they shall notify the Native American Heritage Commission (NAHC) within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The MLD shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

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