

**PLANNING COMMISSION STAFF REPORT**

DATE: June 8, 2020

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SUBJECT: **HAMILTON VILLAGE  
CEQA MITIGATED NEGATIVE DECLARATION  
MITIGATION MONITORING & REPORTING PROGRAM  
P2020-009 GENERAL PLAN AMENDMENT  
P2020-010 MASTER PLAN AMENDMENT  
P2020-011 PRECISE DEVELOPMENT PLAN  
P2019-079; DESIGN REVIEW and  
P2020-012 VESTING TENTATIVE MAP  
APNS 157-970-03; 802 STATE ACCESS ROAD  
INCLUDING GENERAL PLAN CONSISTENCY FINDINGS REGARDING  
GRANT OF EASEMENTS FOR ACCESS ACROSS ADJACENT PROPERTY  
OWNED BY THE CITY, APNS 157-970-05, -06, & -07**

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**REQUESTED ACTION**

Conduct a public hearing to consider and adopt: (1) a resolution recommending the City Council adoption of findings and a mitigated negative declaration and Mitigation Monitoring and Reporting Program; (2) resolutions recommending City Council approval of (a) a general plan amendment, (b) a master plan amendment, (c) a precise development plan, (d) design review approval; and (e) a vesting tentative map, and general plan consistency report regarding grants of easements for access across adjacent property owned by the City (APNs 157-970-05, -06, & -07) Hamilton Village, a 75-unit townhome project proposed at 802 State Access Road.

**EXECUTIVE SUMMARY**

City Ventures (“Applicant”) submitted applications for the construction and operation of the Hamilton Village (“Project”), a 75-unit townhome project proposed on a 4.7 acre vacant, City-owned parcel located within the Commissary Triangle Planning area (Planning Area 4) at 802 State Access Road (“Project Site”) in Hamilton Field. The Project would have a density of 15.9 units per acre. In accordance with Chapter 19.24 of the Novato Municipal Code, the Project will provide 15 units of affordable housing, with 8 units restricted for sale to, and at a price affordable for low-income households and 7 units restricted for sale to, and at a price affordable for moderate income households. The Project includes private balconies and patios, a large central green, outdoor seating and barbeque areas, meditation garden, picnic tables and fire table, group social areas, and landscaped paseos. The Project also includes a 1.1-acre park to be open for public use. The park

includes a community garden, bocce ball courts, children’s play area, landscaping, and safety fencing.

The Applicant is in contract with the City of Novato (“City”) to purchase the project site pending approval of the entitlements for the Project.

### *Requested Entitlements*

The Project requires the following development entitlement approvals:

- **General Plan Amendment** to change the land use designation of the site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) on the General Plan Land Use Map to allow for-sale multi-family residential uses;
- **Master Plan Amendment.** The Hamilton Army Airfield Reuse Plan/Master Plan (“Master Plan”) must be amended to permit private, for-sale multi-family housing and modify other site-specific development standards to acknowledge the Project;
- **Precise Development Plan (PDP)** to address the design and operational characteristics of the Project, as well as development standards (building coverage, setbacks, height limit, parking requirements, etc.);
- **Design Review** to approve the Project’s site design, building height/massing, and landscape and architectural concepts;
- **Vesting Tentative Map** to create common parcels and 75 residential condominium parcels;
- **Grant of Easements.** Approval of an emergency vehicle access (EVA) easement \ across City-owned land abutting the project site, thereby allowing emergency access benefiting the Project and Homeward Bound of Marin’s facilities on APNs 157-970-05, -06, and -07, and a private access easement allowing a segment of an internal drive aisle serving the Project to encroach on the City’s HUD parcel (APN 157-970-07).

The project plans are available for digital download at: [novato.org/hamiltonvillage](http://novato.org/hamiltonvillage).

Hamilton Village is subject to completing the City’s Planned District (PD) process, involving the following public meetings and hearings:

- Neighborhood meeting (completed)
- Design Review Commission Workshop (completed)
- Design Review Commission Recommendation (completed)
- Planning Commission Hearing (pending)
- City Council Hearing (to be determined)
- Design Review Commission – Final Architecture and Landscaping (to be determined)

### *Neighborhood Meeting*

A neighborhood meeting was held on October 2, 2019, at the Hamilton Community Center. Approximately 13 people attended the meeting. A summary of comments from members of the public is provided below.

- Concerns of increased traffic in the general vicinity.
- Concerns over traffic cutting through the Lanham Village neighborhood to reach Main Gate Road.
- Concerns related to the number of proposed units being too high.
- Questions as to whether a number of affordable units greater than 20 percent could be required.

Responses to each of these expressed concerns regarding the proposed Project are addressed below.

### *Design Review Commission Recommendation*

As described above, the Project Site is zoned PD. The PD zoning district requires new multi-family development proposals to be considered first by the Design Review Commission (“DRC”) at a public workshop and a subsequently at a noticed public hearing for a formal recommendation to the Planning Commission and City Council.

On November 6, 2019, the DRC conducted a public workshop to review the site design and circulation, building design and massing, architecture, and landscaping plans for the Project. The DRC made comments and suggestions regarding the site design including:

- Consider smaller gardening areas, and tool sheds to store gardening tools and materials.
- Consider additional seating in the outdoor areas.
- Consider site design changes to the configuration of buildings to increase distance between structures to improve sunlight on the Project Site.
- Consider revising the site plan to feature a large green space with the units organized around the green.
- Consider a shade study.

The [staff report](#) and [minutes](#) of the November 6, 2019 workshop are available for digital download for PC reference.

On December 18, 2019, the DRC conducted a public hearing to consider a revised set of design plans prepared in response to the DRC’s comments of November 6, 2019, workshop. The DRC was asked to consider making a formal recommendation regarding the Project’s site design, building massing/scale, landscaping, and conceptual architecture. The DRC was generally pleased with the revisions made to the plans following the public workshop. The DRC adopted a motion recommending the Planning Commission and City Council approve the site design, building massing/scale, and general architectural and landscape concepts proposed for the Project. The [staff report](#) and [minutes](#) of the hearing are available for digital download for Planning Commission reference.

The Project plans included with this staff report are substantially similar to those that were presented to the DRC on December 18, 2019. Changes to the Project since the DRC review include:

- Reduction of uncovered, on-site parallel parking stalls from 24 to 18 stalls
- Reduction of street parking stalls from 24 to 22 stalls
- Increased number of street trees and addition of on-site trees and shrubs along the Project frontage.

Should the Project be approved by the City Council, the DRC will review the final details of the Project's design, including finish materials and colors.

### *Environmental Review*

An Initial Study was prepared for the Project and its associated entitlement actions pursuant to the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines. This review was conducted to determine if the Project would cause any significant physical impacts to the environment. The Initial Study concluded the Project could result in potentially significant impacts in the CEQA technical categories of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. The Initial Study recommends several mitigation measures to reduce the significance of the identified impacts to a less than significant level. Given the findings and mitigations contained in the Initial Study, a Mitigated Negative Declaration is proposed to be adopted for the Project.

### *Findings of Approval & Staff Recommendation*

The Project and its associated entitlements were reviewed against all applicable findings of approval specified in Chapter 19, *Zoning*, of the Novato Municipal Code (NMC). In all instances, the Project and its associated entitlement actions were found to meet the required findings to approve a general plan amendment, master plan amendment, precise development plan, vesting tentative map, and design review. Staff is recommending the Planning Commission recommend adoption of the Mitigated Negative Declaration, approval of the development entitlements for the Project, and report granting the proposed easements are consistent with the General Plan.

## **SITE DESCRIPTION**

The Project Site is an approximately 4.71-acre parcel located on the north side of State Access Road, east of Nave Drive. The immediately adjacent vacant parcel to the west is comprised of a large rock outcropping known as "Christmas Tree Hill." Across State Access Road to the south of the Project Site is the Lanham Village residential development. North of the Project Site are Homeward Bound of Marin's New Beginnings Center and Next Key Center and what is commonly referred to as the "HUD parcel," a property owned by the City of Novato ("City") and subject to a Ground Lease with Homeward Bound of Marin for the potential development of an affordable and veteran housing project) the "Adjacent City Parcels". Each of the Adjacent City Parcels are restricted for uses that support the homeless population, including supportive housing and services (e.g. jobs training). Novato Village Senior Apartments are located east of the Project Site.

The majority of the Project Site is flat with the exception of 1.3-acres located adjacent to the Christmas Tree Hill parcel. The Project Site is the former site of the base commissary for Hamilton Army Airfield and is currently vacant.

There are 18 trees on the site growing in groups along State Access Road. Four (4) of the trees are of heritage size (trunk diameter of 24-inches or great). There are no natural constraints on the site such as wetland features, however there is a 15-foot wide water line easement running the length of the western property line.

**Figure 1:** Aerial view of the project site (property lines approximate)



## **PROJECT DESCRIPTION**

The Project consists of the construction of 75 townhome-style residential condominiums. The units would be contained in 17 three-story buildings, with access to the Project taken solely from State Access Road. The 75 units consist of 16 two-bedroom units, with an option for a third bedroom, and 59 three-bedroom units, with an option for a fourth bedroom. The Project has a density of 15.9 units per acre.

The Project includes an extensive amount of outdoor open space areas consisting of an approximately 28,196 square feet of common open space provided for residents of Hamilton Village. Common open space amenities include a meditation garden, barbecues and counters, picnic tables, social seating areas, landscaping, and fire tables. Additionally, each unit includes a private deck, and the majority of units also include a private ground floor patio resulting in approximate 577 sf of combined private and common open space for the majority of units. The project includes an on-site 1.1-acre public park which provides a community garden, children's play area, landscaping, safety fencing, and bocce ball courts.

Each of the 75 units includes a 2-car attached garage, for a total of 150 garage parking spaces. An additional 18 guest parking spaces are provided on the Project Site, and 22 parallel parking spaces will be striped along State Access Road. The off-site street parking spaces will be available to the public using the public park on the Project Site. The spaces may also be used for guests of Hamilton Village residents.

### *Subdivision Improvements*

The Project includes a 1.1-acre public access easement in the form of a park as described above. The park will be open to the general public and will be owned and maintained by the Homeowner's Association for the Project.

An on-site 10-foot wide public drainage easement is proposed along the eastern property line to accommodate an existing drainage line which serves the apartment building at 801 State Access Road. The easement is proposed to accommodate a drainage line which was installed to the new senior apartments at 801 State Access Road.

The Applicant has also requested both an emergency vehicle access (EVA) easement and private access easement across the City-owned parcels to the north of the site. The private access easement will accommodate a full drive aisle width of 24-feet wide and is proposed to be a 24.60-feet by 38.15-feet area on the HUD parcel (APN 157-970-07). The EVA and easements will also traverse the existing drive aisles over the three (3) City-own parcels to the north (APNS 157-970-07, -06, -05), beginning at the New Beginnings Center and Next Key Center entrance.

### **NEED FOR PLANNING COMMISSION ACTION**

The entitlements requested for the Project require the Planning Commission to review and provide a recommendation to the City Council. The Planning Commission will conduct a public hearing regarding the Project and consider the staff report, the Initial Study and Mitigated Negative Declaration, the Design Review Commission recommendation, and all evidence, including, but not limited to the public comments submitted relating to the Proposed Project prior to making a recommendation to the City Council. The Planning Commission's review and recommendation will be based on the findings required for approval of a general plan amendment, master plan amendment, precise development plan, design review, and tentative subdivision map, as specified in the Novato Municipal Code (NMC) as set forth in the proposed resolutions. The Planning Commission will also provide a general plan consistency report regarding the requested easements consistent with California Government Code Section 65402.

### **BACKGROUND**

Applicant:	City Ventures
Property Owner:	City of Novato
Property Size:	± 4.71 acres
General Plan Designation:	Community Facilities (CF)
Existing Zoning:	Planned District (PD)

Existing Use: Vacant Lot

Adjacent Zoning and Uses: North: Planned District (PD); HUD Parcel  
South: Planned District (PD); Lanham Village  
East: Planned District (PD); Novato Village Senior Apartments  
West: Planned District (PD); “Christmas Tree Hill”

## **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 entitlements discussed above and the subsequent construction and operation of the Project would result in significant environmental impacts. The Initial Study determined that the Project would result in potentially significant impacts to the environment in the CEQA technical categories of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, and Utilities/Service Systems. However, feasible mitigation measures are available to reduce these impacts to less than significant levels. Therefore, a Mitigated Negative Declaration is recommended to be adopted for the Project. Table 1 below summarizes each potentially significant impact and its corresponding mitigation measure. A full discussion of each impact and mitigation measure is provided in the Hamilton Village Initial Study (available for digital download at: [novato.org/hamiltonvillage](http://novato.org/hamiltonvillage))

<b>TABLE 1 IMPACT AND MITIGATION SUMMARY</b>	
<b>IMPACT</b>	<b>MITIGATION</b>
<b>Biological Resources Impact:</b> If construction activities occur during the bird nesting season (typically February 1 through August 31), nesting birds could be disturbed by construction activities and noise.	<b>Mitigation Measure BIO-1:</b> To avoid impacts to nesting birds and other special-status bird species, ground disturbing activities during construction of the project shall be limited to the period between September 1 and January 31 (i.e., outside the nesting season), if feasible. If initial site disturbance, grading, and vegetation removal cannot be conducted during this period, a qualified biologist shall conduct a pre-construction survey for active nests in and around the project site, no more than two weeks prior to any construction activities. The survey shall include the project site and other such habitat within 500 feet of the project site.  If active nests are identified, the extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided.

	<p>If active nests are identified, species-specific exclusion buffers shall be determined by the biologist (i.e., 500 feet for raptor nests), and construction timing and location adjusted accordingly. The buffer shall be adhered to until the adults and young no longer rely on the nest site, as determined by the biologist. Limits of construction to avoid a nest should be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. An on-site biological monitor shall be present during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (i.e., outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities.</p>
<p><b>Cultural Resources Impact:</b> There is the potential for unanticipated discovery of archeological resources and/or human remains during construction of the Project.</p>	<p><b>Mitigation Measure CUL-1:</b> If cultural resources are encountered during ground-disturbing activities associated with construction of the project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans. Implementation of Mitigation Measures CUL-1 would reduce potential impacts to unanticipated archeological resources to less than significant.</p>
<p><b>Geology and Soils Impact:</b> The Project could be subjected to liquefaction, landslides, lateral spreading, and rock fall, that exposes people or structures to potential substantial adverse effects involving the risk of loss, injury, or death.</p>	<p><b>Mitigation Measure GEO-1:</b> The Geotechnical Investigation produced by Quantum Geotechnical, Inc. (attached as Appendix A) provides recommendations that would ensure the project is suitable from a geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of</p>



	<p>approval and shall be implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: Grading, Surface and Subsurface Drainage, Bio-filtration Facilities, Foundations, Miscellaneous Concrete Flatwork, Retaining Walls and Foundations, Pavement Areas, Utility Trenches, and project review and construction monitoring.</p>
<p><b>Hazards and Hazardous Materials:</b> Project construction would include the temporary transport and use of potentially hazardous materials. Additionally, Phase I and Phase II assessments identified low levels of hazardous materials found in the soil vapor samples of the site despite no historic use of underground storage tanks and hazardous materials in the project vicinity. Accordingly, there remains the potential for unanticipated contamination during ground disturbing construction activities, and the potential for future residents to be exposed to hazardous materials.</p>	<p><b>Mitigation Measure HAZ-1:</b> Prior to the beginning of construction, a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.</p> <p><b>Mitigation Measure HAZ-2:</b> Prior to issuance of a building, grading, or demolition permit, the developer shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project Site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.</p> <p>The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval. The plan shall be peer reviewed by a third-party contractor hired by the City at the developer's expense to confirm the plan is acceptable.</p> <p><b>Mitigation Measure HAZ-3:</b> During construction, the developer shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the Project.</p> <p><b>Mitigation Measure HAZ-4:</b> The developer shall design and implement engineering measures or</p>

	<p>institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control’s (DTSC’s) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City’s Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the developer’s expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.</p> <p>The developer and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department.</p>
<p><b>Transportation:</b> The Project design and landscaping could affect adversely traffic and pedestrian safety</p>	<p><b>Mitigation Measure TRA-1:</b> The applicant shall ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements.</p> <p><b>Mitigation Measure TRA-2:</b> The applicant shall ensure that on-street parking within the project site driveway shall be prohibited and marked by red curbs. Prior to project construction, the applicant shall submit to the City Planning Division plans showing this design.</p>
<p><b>Tribal Cultural Resources:</b> The Project could adversely impact unanticipated tribal cultural resources as a result of the new construction and associated earth-disturbing work.</p>	<p><b>Mitigation Measure TRC-1:</b> If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and</p>

	significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
<b>Utilities and Service Systems:</b> The Novato Sanitary District indicated that the existing sewer trunk main, located within a sanitary sewer easement has insufficient capacity to serve the proposed project, resulting in a potentially significant impact.	<b>Mitigation Measure USS-1:</b> Prior to construction activities commencing, the applicant shall pay a fair share fee to the NSD for the necessary capacity improvement of upsizing 1,180 feet of pipe from 15-inches in diameter to 18-inches in diameter pursuant to the District’s adopted Collection System Master Plan.

A resolution addressing the CEQA documentation for the Project is provided as **Attachment 1**. The resolution describes each potential impact and its corresponding mitigation measures and findings/statements of fact supporting the recommendation to adopt a Mitigated Negative Declaration. All mitigation measures are recommended to be applied to the Project as conditions of approval.

**STAFF ANALYSIS**

***General Plan Amendment***

The Project site is currently assigned the Community Facilities (CF) land use designation of the Novato General Plan. The CF land use designation is not typically assigned to privately owned parcels, and offers a limited range of permitted land uses that are intended to provide for the needs of local government and non-profit entities such as homeless services centers, fire and police stations, water and sewage treatment facilities, or public libraries and utility facilities. Privately developed for-profit residential projects are not a permitted use under the CF land use designation. A general plan amendment is necessary to assign a land use designation that would permit the Project as a private, for-profit development.

The proposed general plan amendment would change the land use designation assigned to the Project site by the 1996 Novato General Plan from CF to Medium Density Multiple Family Residential (R10). The R10 land use designation allows the following land uses: multiple family dwelling units, two family dwelling (e.g., duplex), attached single-family dwellings, limited commercial uses to serve building residents (e.g., gift shop), recreation, home occupations, and community facilities. The R10 land use designation permits a density range of 10.1 to 20 multi-family dwelling units per acre. The Project proposes 75 townhomes on a 4.71-acre parcel, resulting

in a density of 15.9 units per acre. As proposed, the Project would meet the land use definition and density level permitted under the R10 land use designation.

The findings of NMC Section 19.56.070.A., listed below must be made in order to approve an amendment to the Novato General Plan Land Use Map. 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 provision of utilities) for the requested/anticipated land use.

The Project has been reviewed to determine whether assigning the R10 land use designation to the Project Site and the subsequent construction and operation of the Project would be consistent with the findings above. 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 resolution recommending approval of the proposed general plan amendment presented as **Attachment 2**.

### ***Master Plan Amendment***

The Project Site is assigned the Planned District (PD) zoning district classification. Therefore, a master plan is required to establish the land use(s) and development intensity permitted on a site zoned PD. The Project Site is subject to an adopted master plan the *Master Plan for the Hamilton Field Department of Defense Housing Facility (“DODHF”) Property* (“Master Plan”), consisting of the Hamilton Reuse Plan.

The Hamilton Reuse Plan is a comprehensive planning document prepared to review the constraints, opportunities, land uses, development standards, and design policies representing the preferred development alternative for the DODHF property at Hamilton Field. The Reuse Plan was approved in 1995 and later adopted in July 1998 as the Redevelopment Plan for Hamilton. In October 1999, the City Council adopted the Reuse Plan as the Master Plan for the DODHF property by Ordinance No. 1419. The Master Plan, consisting of the Reuse Plan, is the controlling document for the development of land within the former DODHF area at Hamilton Field, including the Project Site.

A full copy of the original Master Plan is available for digital download: [Hamilton Army Airfield Reuse Plan](#). The Master Plan has been amended multiple times most recently for the 801 State Access Senior Apartments (2013) and Hamilton Hospital (2015) projects. The proposed

amendments to the Master Plan as shown on **Attachment 3** reference the amended text of the Master Plan.

The Master Plan divides the DODHF property into 10 planning areas, each assigned various land use categories, development types and standards, and design guidelines. The Project Site is identified as being located in the Commissary Triangle Planning Area (Planning Area 4). The Project Site is assigned the Community Facilities and Civic Uses – Special Uses Permitted (CFCU-SP) land use classification of the Master Plan. Allowable uses under the CFCU-SP designation include public buildings and facilities such as public libraries, parks and open space, City offices, hospitals, fire and police stations, and schools, among other uses.

The Project proposes the private, for-profit construction of 75 residential townhomes, a land use type which is not permitted under the CFCU-SP designation as found in the Master Plan. Proposed amendments to the Master Plan include changing the land use designation assigned to the site from CFCU-SP to Medium Density Multiple Family Residential (MDMFR). The MDMFR category has an allowable density of 10.1 to 20 units per acre, consistent with the R10 General Plan land use designation proposed for the Project site. The MDMFR is defined in the Master Plan as follows:

*“The Medium Density Multiple Family Residential (MDMFR) is assigned to existing residential areas which are characterized by this density of residential development (such as Hillside Housing portion of Capehart Housing) and in new residential areas which would abut non-residential land uses. The residential home type which could be developed under this designation could range from attached units such as duplexes or townhomes to six-plexes. This category can accommodate special housing types such as seniors housing.*

*Land uses to be permitted include single-family detached and attached dwellings, home occupations, public parks and playgrounds, family size care facilities, family size day care homes, group care (i.e., seniors housing), attached units, nurseries and greenhouses.*

*Both common and private open space would be integrated into neighborhoods in this designation. Building heights would be limited to two stories.”*

The Master Plan applicable to the Project Site includes a 30-foot height limit for new development within the Commissary Triangle Planning Area. The Project proposes to amend the Master Plan to allow a height limit of 40-feet for the Project Site only, leaving the maximum height limitation for the remainder of the Commissary Triangle Planning Area at 30-feet.

The Project’s proposed building height is common for a townhome style residence featuring two floors of living space over a garage with interior ceiling heights of 9-feet. This height allows for ceiling-heights desired by new home buyers and a roof component (peaked or parapet wall) that offers architectural appeal. In this instance, the units include a flat roof component with parapet walls of a sufficient height to screen roof-top mounted heating/cooling equipment and solar panels.

Other townhome style condominium projects of a similar height have been approved recently in Novato, including Atherton Place (38-feet) and 7711 Redwood Boulevard Residences (43-feet

w/rooftop patios). The approvals were granted under provisions allowing the Design Review process to be used to grant additional building height through the PD process.

Staff believes it is acceptable to modify the Master Plan to allow units up to 40-feet in height at this particular location since the Project is generally well separated from surrounding development, including Lanham Village (+/- 140-feet) and Novato Village Senior Apartments (+/- 20 feet at closest unit), and includes architectural elements providing varying wall planes and recesses that break up the façade of the buildings and create visual interest. These design elements avoid buildings with a tall, flat appearance. Given the 80-foot right-of-way of State Access Road, and existing mature trees located along the south side of the road, Hamilton Village should not feel imposing. The Design Review Commission concurred with these observations when recommending approval of the Project site design, massing/height, and architectural concept.

The complete text of the proposed amendments to the Master Plan can be found in **Attachment 3, Exhibit A**.

The findings of NMC Section 19.042.060E.3. listed below must be made to approve the proposed amendments to the Master Plan:

1. The proposed Master Plan development is in conformance with the applicable goals and policies of the General Plan and any applicable specific plan;
2. The site is physically suitable (including consideration of physical constraints, access, compatibility with adjoin land uses, and provisions of utilities) for the requested/anticipated land use;
3. The proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities;
4. The proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and surrounding neighborhood; and
5. The location, access, density/building intensity, size, and type of uses proposed in the Master Plan are compatible with the existing and future land uses in the surrounding neighborhood.

The proposed amendments to the Master Plan and the subsequent construction and operation of the Project have been reviewed against the findings above. In all instances, the proposed amendments to the Master Plan and the Project itself were found to meet the noted findings. The specific facts to support these findings are provided in the resolution recommending approval of the proposed Master Plan amendments presented as **Attachment 3**.

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

The PD zoning classification applied to the Project site requires the approval of a precise development plan (PDP) to establish specific design and operational components of a project,

consistent with the general plan land use designation assigned to the site, as well as any applicable master plan provisions. Deviations from the uniform standards of the Novato Zoning Ordinance are allowed where doing so would better address unique site constraints or would result in a superior project design.

Table 2 below lists development standards applicable to the Project and compares the project proposal to the requirements of the R10 zoning district that would otherwise apply to a site assigned the R10 land use designation of the General Plan. The Project’s development standards are generally similar to traditional development standards for this type of project, with the most notable difference being a proposed 9-foot front setback along State Access Road.

**Table 2**

<b>Development Feature</b>	<b>R10 Zoning District Development Standards</b>	<b>Project Proposal – PD Zoning</b>
Minimum/Maximum density	10.1 to 20 units per gross acre; 48- 94 units	75 units; 15.9 units per acre
Front	20 feet	9 feet
Sides	10 feet	7-15 feet
Rear	25 feet	40 feet
Building Coverage	40%	28%
Height limit	35-feet/up to 42-feet with Design Review approval.	39-feet ( <i>see further discussion on height limit above under Hamilton Army Airfield Master Plan</i> )
Parking	190 spaces (NMC <a href="#">19.30</a> )	150 covered garage spaces 18 uncovered on-site spaces (168 on-site spaces)  22 additional parking spaces are proposed in the ROW to serve parking for visitors and Project guests.
Landscaping	Per NMC <a href="#">19.28</a>	The proposal meets or exceeds the standards found in this NMC division.
Private Open Space	150 sf/unit	59 units are provided 150 sf/unit  16 units are provided either 77 or 93 sf/unit. ( <i>See further discussion below under Private Open Space</i> ).
Common Open Space	150 sf/unit	Approximately 375 sf/unit
Solid Waste and Recycling	288 sf storage area for common trash and recycling	Individual trash and recycling cans will be provided for each unit.

### *Affordable Housing*

The Project includes 15 units that will be restricted for sale to buyers in the low- and moderate-income categories consistent with the requirements of Novato Municipal Code Division 19.24, Affordable Housing Requirements. These units will feature a 3-bedroom floor plan and are dispersed throughout the Project. Affordability will be governed by an affordable housing agreement executed before the Project begins construction as stipulated in the conditions of approval recommended by staff. The new affordable units and market rate residences will be credited to meeting Novato's Regional Housing Needs Allocation (RHNA).

### *Setbacks*

The Applicant is proposing a 9-foot setback from the property line along State Access Road. This reduced setback is augmented by a sidewalk of 6.5-feet wide and an associated planter well of 1.5-feet, leaving units approximately 17-feet of separation from on-street parking or 25-feet from the nearest travel land on State Access Road. The reduced front setback is the result of accommodating on-site parallel parking along the north property line of the project, providing conforming drive-aisle widths (24-feet), and accommodating a central open space as desired by the Design Review Commission.

Staff believes the reduced setback is acceptable since: a) the closest units would be sufficiently separated from the travel lane along State Access Road by 25-feet; b) placing units closer to State Access Road helps reduce the scale of the 80-foot right of way, thereby creating more of a neighborhood street feeling; and c) the setback creates visual interest and the sense of activity at the street edge, both of which improve the appearance and identity of State Access Road.

### *Private Open Space*

While most units are provided 150 sf of private open space as typically required by the NMC, 16 units (Plan 1) are provided with less than this amount of private open space. These corner units feature second-floor decks of either 93 sq. ft. (9'-3" x 10'-9") or 77 sq. ft. (7'-2" x 10'-9"). These particular units have two street frontages, a common walkway frontage, and a common wall connection to another unit. This configuration does not permit provision of a private ground level patio like the other units in the project.

Given the generous amount of common open space and quality of the amenities (outdoor cooking and dining area, seating areas, meditation garden, botanical garden, etc.) provided in the Project (approximately 375 sq. feet per unit), which exceeds the requirement (300 sq. ft. of open space total per unit) found in the NMC, and the 1.1 acre on-site public park, staff believes a nominal reduction in the amount of private open space for 16 units is not an unreasonable departure from the traditional standards of the zoning ordinance. Staff believes the larger amount of common open space results in a higher quality project than one simply meeting the minimums required by the zoning ordinance.



### *Solid Waste and Recycling*

The Applicant has proposed individual solid waste and recycling carts for each of the proposed units, as opposed to a larger common area dumpster(s) for use by all residents, traditionally required for this type of project. The Applicant has obtained written confirmation from Recology, the local solid waste and recycling collection provider, stating that it is able to serve the Project. The Project has been designed with garages sized to accommodate individual solid waste and recycling carts and parked vehicles. Based on these observations, staff believes it is acceptable to allow individual solid waste and recycling carts for each of the proposed units versus common waste/recycling facilities. Such an accommodation allows more land area to be dedicated to common open space versus the creation of trash enclosures.

### *Parking*

The Applicant has proposed an alternative parking ratio for on-site parking to that which is typically required for multifamily housing projects per NMC Division 19.30 – see comparison noted in Table 2 above. This Division requires 2.2 resident parking spaces for each unit with three (3) or more bedrooms. The Project provides two (2) resident garage parking space per unit, consistent with Novato’s single-family dwelling parking requirement. The Project also includes 18 on-site, uncovered guest parking spaces, where 25 would be required by the Zoning Ordinance. The applicant is also proposing to construct 22 on-street parking spaces which would be available for use by the general public visiting the Park parcel as well as guests of the Project.

Staff believes the proposed on-site parking ratio is sufficient to meet the needs of the Project based on the following observations:

The General Plan Housing Element includes **HO Program 3.B Update Parking Standards**, which calls for updating parking standards including a reduction of multi-family parking requirements for three- or more bedroom units from 2.2 spaces to 2.0 spaces, to be consistent with single-family home standards. HO Program 3.B also suggests allowances for off-site parking and allowances in certain instances for parking standards to be adjusted on a case-by-case basis, depending on the location and characteristics of the development and its intended occupants, and reduction of parking near transit.

The proposed Project has provided parking at a ratio of 2.0 spaces for multi-family units with 3 or more bedrooms, consistent with HO Program 3.B, and additional on-site guest parking of approximately 1 guest stall for each 4 units. Additionally, 22 off-site street parking spaces will be provided along the project’s frontage on State Access Road, creating additional parking for residents’ guests, as well as users of the public park.

The project site is located within reasonable walking distance (approximately 0.5 miles) to public transportation including the Hamilton SMART train station, bus stops on Hamilton Parkway east of Nave Drive for Golden Gate Transit, Marin Transit, and the Marin Airporter. The project site is also within walking/biking distance of amenities including the Hamilton Marketplace shopping center which hosts a grocery store, restaurants, medical clinic, and a fitness studio, as well as the Novato Skatepark, South Novato Library, and several schools, potentially incrementally reducing the need for additional parking since guests may arrive by transit and vehicle ownership may be lower in the Project.

### *Building Height Increase*

Please see discussion above regarding modification of the Hamilton Army Airfield Master Plan to allow additional building height.

### *Master Plan Design Guidelines*

The Master Plan also includes an extensive set of design guidelines for Planning Area 4, listed in Section 8.0 of the Master Plan. The Project has been reviewed against these guidelines, and in all instances the Project was found to comply. A copy of the Master Plan Section 8.0 *Design Guidelines* with design policies applicable to the Project is available for digital download as an attachment to the [staff report](#) of the December 18, 2019 Design Review Commission hearing from the project.

### *Precise Development Plan Findings*

The findings of NMC 19.42.060F.3., listed below, must be made to approve the proposed precise development plan for the Project:

1. The proposed precise development plan is consistent with the general plan, any available specific plan, and the approved master plan;
2. The proposed precise development plan would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, increased amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than might otherwise occur from more traditional development applications;
3. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare, or injurious to the property or improvements in the vicinity and zoning district in which the property is located;
4. The precise development plan standards are reasonably suited to the specific characteristics of the site, and are compatible with the existing and future land uses in the surrounding neighborhood;
5. The subject site is:
  - a. Physically suited for the type and density/intensity of development being proposed;
  - b. Adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by this title; and

- c. Served by streets and pedestrian facilities adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

The Project has been reviewed to determine whether the proposed precise development plan and subsequent construction and operation of the Project have been reviewed against the findings above. In all instances, the proposed precise development plan and the Project itself were found to meet the noted findings. The specific facts to support this position are provided in the resolution recommending approval of the Precise Development Plan presented as **Attachment 4**.

### ***Design Review***

Design review by the DRC is required for new multi-family development, and for proposals on sites zoned PD. As described above, the Project has been reviewed by the DRC at both a public workshop and at a subsequent public hearing. The intent of the DRC's review and recommendation is to assist the Planning Commission and City Council's consideration of whether the Project is acceptably designed consistent with applicable standards and, if deviations are proposed from such standards, that such modifications are appropriate given the context and constraints of the project site.

On December 18, 2019, the DRC recommended the Planning Commission and City Council approve the Project's site design, building massing/scale, and conceptual landscaping and architecture. The DRC's recommendation was based on the required findings for Design Review below, as listed in NMC Section 19.42.030. F:

1. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines and all applicable provisions of this code, including this title and any approved master plan and precise development plan.
2. The proposed project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.
3. The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.

The Project has been reviewed to determine whether its design would be consistent with the findings above. In all instances the Project's design, as represented by the project plans was found to meet the noted Design Review findings. The specific facts to support this conclusion are provided in the resolution recommending approval of the Project's site plan design review as **Attachment 4**.

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

The Applicant has requested approval of a vesting tentative map (VTM) to subdivide the project site for condominium purposes into 75 residential condominium units, as well as a common area parcel. The VTM also depicts the infrastructure and public utilities and other easements required to serve the Project.

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

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

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

Based on the observations above, the Project's VTM is considered to be consistent with the findings necessary to approve a tentative map. Additional facts supporting this position are provided in the resolution recommending approval of the Project's VTM presented as **Attachment 5**.

### ***Grant of Easements***

As described above, the Applicant has requested an emergency vehicle access (EVA) easement across portions of the City-owned parcels to the north of the site, including the HUD parcel, and the other City owned parcels currently leased to and Homeward Bound of Marin's on which the New Beginnings Center and Next Key Center are located. The easement would be reciprocal between the City properties and the Project.

The Project plans were referred to the Novato Fire Protection District for review and comment. The Fire District concluded that a second means of emergency ingress and egress capable of accommodating fire vehicles is required in order to adequately provide fire and emergency protection for the Project, future development of the HUD parcel with a housing and employment training project proposed by Homeward Bound of Marin, and Homeward Bound of Marin's existing facilities. The Fire District submitted a request to apply a condition of approval requiring the EVA easement. This condition is recommended by staff.

The Applicant has also requested a private access easement over a small portion of the northeast corner of the site (where EVA enters the site) to accommodate construction of the full width of the proposed internal drive aisle serving the Project. The City Council will need to approve dedication of the EVA easement and the private access easement to the Applicant.

Granting of the proposed easements requires a General Plan consistency report from the Planning Commission as part of the recommendations to be forwarded to the City Council in accordance with Government Code Section 65402. A General Plan consistency report can be found as Exhibit A to **Attachment 5** the resolution recommending adoption of General Plan consistency findings to approve the grant of easements.

### **COMMISSION ALTERNATIVES**

1. Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested general plan amendment, master plan amendment, precise development plan, tentative subdivision map, and design review for the Project by adoption of the attached resolutions and report the location, purpose and extent of the granting of easements over adjacent City owned property in favor of the Project is consistent with the 1996 Novato General Plan;
2. Modify any of the proposed resolutions and recommend adoption of the Mitigated Negative Declaration and approval of the requested general plan amendment, master plan amendment, precise development plan, tentative subdivision map, and design review, and report the location, purpose and extent of the granting of easements over adjacent City owned property in favor of the Project is consistent with the 1996 Novato General Plan;
3. Recommend the City Council not adopt a Mitigated Negative Declaration and deny the requested general plan amendment, master plan amendment, precise development plan, tentative subdivision map, and design review, and report the location, purpose and extent of the granting of easements over adjacent City owned property in favor of the Project is inconsistent with the 1996 Novato General Plan;
4. Continue the public hearing with direction to staff and the applicant.

### **RECOMMENDATION**

Recommend the City Council adopt a Mitigated Negative Declaration and approve the requested general plan amendment, master plan amendment, precise development plan, tentative subdivision

map, and design review and report that the location, purpose and extent of the granting of easements over adjacent City owned property in favor of the Project is consistent with the 1996 Novato General Plan, by adoption of the attached resolutions

### **FURTHER ACTION**

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

### **AVAILABLE FOR DIGITAL DOWNLOAD**

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

1. Design Review Commission Minutes of December 18, 2019
2. Design Review Commission Staff Report of December 18, 2019
3. Design Review Commission Minutes of November 6, 2019
4. Design Review Commission Workshop Staff Report of November 6, 2019
5. Hamilton Village – CEQA Initial Study/Mitigated Negative Declaration
6. Hamilton Village Plans – William Hezmalhalch Architects, Inc., March 31, 2020

### **ATTACHMENTS**

1. Resolution – Mitigated Negative Declaration
2. Resolution – General Plan Amendment
3. Resolution – Master Plan Amendment
4. Resolution – Precise Development Plan and Design Review
5. Resolution – Vesting Tentative Map and Grant of Easements
6. Public Correspondence

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2020-\_\_\_\_\_

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION FOR THE PROPOSED HAMILTON VILLAGE PROJECT, A 75-UNIT CONDOMINIUM PROJECT LOCATED AT 802 STATE ACCESS ROAD, APN 157-970-03, INVOLVING A GENERAL PLAN AMENDMENT, MASTER PLAN AMENDMENT, PRECISE DEVELOPMENT PLAN, DESIGN REVIEW, VESTING TENTATIVE MAP, AND GRANT OF EASEMENTS

WHEREAS, the City of Novato (“City”) received applications from City Ventures (“Applicant”) for a general plan amendment, master plan amendment, precise development plan, design review, vesting tentative map, and a request to grant easements for the proposed Hamilton Village project (“Project”) proposed to be located at 802 State Access Road, APN 157-970-03 (“Project Site”); and

WHEREAS, the general plan amendment application (P2020-009) requests the City amend the General Plan Land Use Map (Land Use Map LU 1) to change the land use designation assigned to the Project Site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) to assign a land use designation to the Project Site that allows for the Project; and

WHEREAS, the master plan applicable to the Project Site is the Master Plan for the Hamilton Field DODHF Property (“Master Plan”), consisting of the Hamilton Reuse Plan, approved by the City Council on November 9, 1999, by adoption of Ordinance No. 1419; and

WHEREAS, the master plan amendment application (P2020-010) requests the City amend the Master Plan to: a) change the Project Site’s land use category from Community Facilities and Civic Uses – Special Uses Permitted (CFCU-SP) to the Medium Density Multiple Family Residential (MDMFR) land use category which would permit multi-family land uses up to a maximum density of 20 units per acre, consistent with the R10 land use designation of the General Plan; b) add text recognizing private, for-profit multi-family housing is an acceptable land use at the Project Site in the Commissary Triangle Planning Area (Planning Area 4); and

WHEREAS, the Precise Development Plan (PDP) application (P2020-011) requests the City approve a PDP for the Project, consisting of the Project’s design plans, addressing the design and operation of the Project; and

WHEREAS the Design Review application (P2019-079) requests the City approve the site design, massing, landscaping, and architecture for the Project, as presented on the Project’s design plans; and

WHEREAS, the Vesting Tentative Map (VTM) application (P2020-012) requests the City approve a VTM for the Project for condominium purposes; and

WHEREAS, the City determined the Project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended for approval by the Design Review Commission at its public hearing of December 18, 2019 served as the Project to be analyzed pursuant to CEQA; and

WHEREAS an Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared in compliance with the provisions of California Environmental Quality Act (“CEQA”) and the City of Novato Environmental Review Guidelines. The Initial Study considered the project site and its setting and the potential effects of assigning the Medium Density Multiple Family Residential (R10) land use designation to the site, and the effect of adopting a master plan amendment and PDP to accommodate the Project, the construction and operation of the Project itself, and granting easements over adjoining City owned lands on the basis of the technical subjects (e.g., aesthetics, air quality, biological resources, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA topical areas of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to less-than-significant levels; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project and its associated actions could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the IS/MND; and

WHEREAS on October 2, 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, on November 6, 2019, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project’s site design, massing, and conceptual architecture and landscaping.; and

WHEREAS, public notices describing the City’s intent to adopt a Mitigated Negative Declaration for the Project and announcing a 20-day public review period beginning on May 21,



2020 and ending on June 9, 2020, were sent to all affected property owners within 600-feet of the boundaries of the Project Site, 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 a 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, public notices describing the Planning Commission's public hearing on the proposed IS/MND prepared for the Project were sent to all affected property owners within 600-feet of the boundaries of the Project Site, 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 a 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, and considered all oral and written comments on the Mitigated Negative Declaration, its accompanying Initial Study and the Project.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby recommend the City Council adopt a Mitigated Negative Declaration for the Project based on the following findings:

**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 and the Project (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) Original Master Plan (Master Plan for the Hamilton Field DODHF Property) and its related EIR (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND and the Project (7) all documentary and oral evidence received at public workshops, meetings, and hearings on the Project (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

**Section 3. Mitigated Negative Declaration/Initial Study Considered and Recommended**

Based upon information in the Initial Study/Mitigated Negative Declaration for the Project, dated May 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 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
- c. The Mitigated Negative Declaration reflects the City's independent judgment and analysis as Lead Agency.

**Section 4. CEQA Findings**

The Planning Commission hereby adopts and recommends to the City Council the adoption of the IS/MND dated May 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 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 will not have a significant effect upon the environment.

**Section 5. Mitigation, Monitoring, and Reporting Program**

The Planning Commission hereby recommends the City Council adopt as conditions of approval to the Project the mitigation measures set forth in the IS/MND and its accompanying Mitigation, Monitoring, and Reporting Program (“MMRP”), set forth in **Exhibit B**, pursuant to Public Resources Code Section 21081.6, which is a program designed to ensure compliance with the 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 6. 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 decision(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 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 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 – Initial Study/Mitigated Negative Declaration Findings and Facts
- Exhibit B – Mitigation Monitoring and Reporting Program

**EXHIBIT A**  
**HAMILTON VILLAGE**  
**802 STATE ACCESS ROAD; APN 157-970-03**

**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. 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 1 through August 31), nesting birds could be disturbed by construction activities and noise. 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 Section 4, Biological Resources.

**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 the Project. Mitigation Measure BIO-1 requires pre-construction surveys for nesting birds within or immediately adjacent to the project site no more than two weeks 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:** There is the potential for unanticipated discovery of archeological resources and/or human remains during construction of the Project. Implementation of Mitigation Measure CUL-1 would reduce these potentially significant impacts to less-than-significant levels. (Mitigated Negative Declaration/Initial Study Section 5, Cultural Resources).

**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 Measure CUL-1 as identified in the Mitigated Negative Declaration/Initial Study.

**Facts in Support of Finding:** Mitigation Measure CUL-1 has been proposed in the Mitigated Negative Declaration/Initial Study to ensure the protection of cultural resources and/or human remains which could be impacted due to construction of the Project. 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 50-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. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans.

Mitigation Measure CUL-1 also requires that in accordance with Section 7050.5 of the California Health and Safety Code, if potential human remains are found, work 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). In accordance with California Public Resources Code, Section 5097.98. the NAHC must notify the person(s) believed to be the most likely descendant (MLD) from the deceased Native American. The MLD has 48 hours from being granted site access to make recommendation for disposition of the remains. If the MLD does not make recommendations within 48 hours, the landowner shall reinter the remains in an area of the property secure from subsequent disturbance.

- C. Geology and Soils Impact:** The Project could be subjected to liquefaction, landslides, lateral spreading, and rock fall, that exposes people or structures to potential substantial adverse effects involving the risk of loss, injury, or death. Implementation of Mitigation

Measure GEO-1 would reduce this potentially significant impact to a less-than-significant level. (Mitigated Negative Declaration/Initial Study Section 7, Geology and Soils).

**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 liquefaction, landslides, lateral spreading, and rock fall 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 is required to ensure the Project does not expose people or structures to risks from geologic and/or seismic conditions: The Geotechnical Investigation produced by Quantum Geotechnical, Inc. provides recommendations that would ensure the Project is suitable from a geotechnical standpoint and would increase the safety and integrity of the Project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of approval and shall be implemented during construction and prior to occupancy of the Project. The recommendations address but are not limited to: grading, surface and subsurface drainage, bio-filtration facilities, foundations, miscellaneous concrete flatwork, retaining walls and foundations, pavement areas, utility trenches, and project review and construction monitoring.

**D. Hazards and Hazardous Materials Impact:** Project construction would include the temporary transport and use of potentially hazardous materials. Additionally, Phase I and Phase II assessments identified low levels of hazardous materials found in the soil vapor samples of the site despite no historic use of underground storage tanks and hazardous materials in the project vicinity. There remains the potential for encountering unanticipated contamination during ground disturbing construction activities, and the potential for persons to be exposed to hazardous materials. Implementation of Mitigation Measure HAZ-1, HAZ-2, HAZ-3, and HAZ-4 would reduce these potentially significant impacts to a less-than-significant level. (Mitigated Negative Declaration/Initial Study Section 9, Hazards and Hazardous Materials).

**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 hazardous materials, by implementation of Mitigation Measures HAZ-1, HAZ-2, HAZ-3, and HAZ-4 as identified in the Mitigated Negative Declaration/Initial Study.

**Facts in Support of Finding:** Mitigation Measures HAZ-1, HAZ-2, HAZ-3, and HAZ-4 have been proposed in the Mitigated Negative Declaration/Initial Study to ensure that

the proposed project does not expose people to unacceptable risk from hazardous materials during construction and earth disturbing work, and operation of the project:

**HAZ-1 - Prior to the beginning of construction:** a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.

**HAZ-2 - Prior to issuance of a building, grading, or demolition permit:** the developer shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.

The plan shall:

- Provide that the construction contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, during grading, excavation, demolition and construction activities. If during such activities the contractor discovers an unknown waste or debris that is believed to involve hazardous waste and/or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant and remove workers and any members of the public at the Project site from the immediate area of the discovery;
- Describe the monitoring protocols to be implemented during grading and excavation activities to observe any potential indicators of soil contamination, such as soil staining and odors;
- Identify appropriate measures to be followed if contaminants or unknown underground environmental features (e.g., storage tank) or debris are encountered during grading, excavation, and site demolition work to protect workers and the public;
- Prescribe sampling protocols to properly characterize suspected contaminants;
- Specify contaminant thresholds at which regulatory agency (e.g., Marin County Certified Uniform Program Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control) notification is required;
- Incorporate all mitigation measures/conditions of approval addressing dust control;
- Identify personnel to be notified and provide emergency contact information; and
- Prescribe handling protocols for suspected contaminants and appropriate disposal procedures.



The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval. The plan shall be peer reviewed by a third-party contractor hired by the City at the developer's expense to confirm the plan is acceptable.

**HAZ-3** - During construction, the developer shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the project. Basic measures shall include, at a minimum:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the name and telephone number of the contractor's representative to contact regarding dust complaints. This person shall respond and take corrective action within two hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Additional measures shall include, at a minimum:
  - All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
  - The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.

**HAZ- 4 - The developer shall design and implement** engineering measures or institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City's Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the developer's expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.

The developer and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department.

The efficacy of the measures and controls shall be confirmed and certified by a qualified professional pursuant to the construction quality assurance/quality control testing guidance of the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011).

**E. Transportation Impact:** The Project's drive aisle design and landscaping could adversely affect traffic and pedestrian safety. Implementation of mitigation measures TRA-1 and TRA-2 would reduce these potentially significant impacts to a less-than-significant level. (Mitigated Negative Declaration/Initial Study Section 17, Transportation).

**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 traffic and pedestrian safety, by implementation of Mitigation Measures TRA-1 and TRA-2 as identified in the Mitigated Negative Declaration/Initial Study.

**Facts in Support of Finding:** Mitigation Measures TRA-1 and TRA-2 have been proposed in the Mitigated Negative Declaration/Initial Study, requiring the project design and landscaping to enhance traffic and pedestrian safety. Mitigation Measure TRA-1 requires the Applicant to ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the Applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements.

Mitigation Measure TRA-2 requires the Applicant to ensure that on-street parking within the project site driveway is prohibited and marked by red curbs. Prior to project construction, the Applicant shall submit to the City Planning Division plans showing this design.

- F. Tribal Cultural Resources Impact:** The Project could adversely impact unanticipated tribal cultural resources as a result of the new construction and associated earth-disturbing work. Implementation of mitigation measure TRC-1 would reduce this potential impact to a less-than-significant level. (Mitigated Negative Declaration/Initial Study Section 18, Tribal Cultural Resources).

**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 unanticipated discovery of tribal cultural resources, by implementation of Mitigation Measure TRC-1 as identified in the Mitigated Negative Declaration/Initial Study.

**Facts in Support of Finding:** Mitigation Measure TRC-1 is proposed in the Mitigated Negative Declaration/Initial Study to ensure the protection of unanticipated tribal cultural resources. Mitigation Measure TRC-1 requires that in the event cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative. Mitigation Measure TRC-1 is combined with the requirements of Mitigation Measure CUL-1.

- G. Utilities and Service Systems Impact:** The Novato Sanitary District indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area, resulting in a potentially significant impact. Mitigation Measure USS-1 would reduce this potentially significant impact to a less-than-significant level (Mitigated Negative Declaration/Initial Study Section 19, Utilities and Service Systems).

**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 utilities and service systems, by implementation of Mitigation Measure USS-1 as identified in the Mitigated Negative Declaration/Initial Study.

**Facts in Support of Finding:** Mitigation Measure USS-1 is required to ensure the Project does not result in adverse impacts to sewer infrastructure. The Applicant is required to pay a fee to the Novato Sanitary District (NSD) to cover the Project's fair share contribution for the necessary future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

Exhibit B

## **Mitigation Monitoring and Reporting Program**

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

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

The following table identifies each mitigation measure included in the Final IS-MND, the action required for the measure to be implemented, the time at which the monitoring is to occur, the monitoring frequency, and the agency or party responsible for ensuring that the monitoring is performed. In addition, the table includes columns for compliance verification. These columns will be filled out by the monitoring agency or party and would document monitoring compliance. Where an impact was identified to be less than significant, no mitigation measures were required.



Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities.							
<b>Cultural Resources</b>							
<b>CUL-1: Inadvertent Discoveries</b>							
If cultural resources are encountered during ground-disturbing activities associated with construction of the project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans.	<ul style="list-style-type: none"> <li>Require, in the construction and grading permits, that all work be halted if cultural resources are encountered and a qualified archeologist is contacted to evaluate the find.</li> <li>Construction personnel monitor for suspected cultural resources.</li> </ul>	Prior to construction and grading permit approval	Once	City of Novato Community Development Department – Planning Division, Developer, and On-site Construction Manager			
		Ongoing throughout grading and excavation work	Continuously				
<b>Geology and Soils</b>							
<b>GEO- 1: Geotechnical Recommendations</b>							
The Geotechnical Investigation produced by Quantum Geotechnical, Inc. (attached as Appendix A) provides recommendations that would ensure the project is suitable from a	<ul style="list-style-type: none"> <li>Require, in the construction and grading permits, all recommendations in the</li> </ul>	Prior to construction and grading permit approval	Once	City of Novato Community Development Department – ,			

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of approval and shall be implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: Grading, Surface and Subsurface Drainage, Bio-filtration Facilities, Foundations, Miscellaneous Concrete Flatwork, Retaining Walls and Foundations, Pavement Areas, Utility Trenches, and project review and construction monitoring.	Geotechnical Investigation, including Items 1-57, as conditions of approval.			Building Division, Novato Public Works Department – Engineering Division, Developer, and On-site Construction Manager			
<b>Hazards and Hazardous Materials</b>							
<b>HAZ-1: Petromat® Survey</b>							
Prior to the beginning of construction, a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.	<ul style="list-style-type: none"> <li>▪ Retain a qualified contractor to conduct a pre-construction survey for Petromat®.</li> <li>▪ If Petromat® is detected, retain a licensed asbestos abatement contractor to remove the materials.</li> </ul>	<p>Prior to construction and grading permit approvals</p> <p>Prior to site preparation and grading</p>	<p>Once</p> <p>Once</p>	<p>City of Novato Community Development Department – Planning Division, Developer, and On-site Construction Manager</p>			



Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<b>HAZ-2: Soil and Groundwater Management Plan</b>							
<p>Prior to issuance of a building, grading, or demolition permit, the developer shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.</p> <p>The plan shall:</p> <ul style="list-style-type: none"> <li>▪ Provide that the construction contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, during grading, excavation, demolition and construction activities. If during such activities the contractor discovers an unknown waste or debris that is believed to involve hazardous waste and/or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant and remove workers and any members of the public at the project site from the immediate area of the discovery;</li> <li>▪ Describe the monitoring protocols to be implemented during grading and excavation activities to observe any potential indicators of soil contamination, such as soil staining and odors;</li> <li>▪ Identify appropriate measures to be followed if contaminants or unknown underground environmental features (e.g., storage tank) or debris are encountered during grading, excavation, and site</li> </ul>	<ul style="list-style-type: none"> <li>▪ Verify completion of a soil and groundwater management plan for site construction activities.</li> </ul>	Prior to construction and grading permit approval	Once	City of Novato Community Development Department – Planning Division and Building Division, Developer, and On-site Construction Manager			
	<ul style="list-style-type: none"> <li>▪ Retain a third-party contractor to peer review the developer’s plan and confirm the plan meets the requirements of this mitigation measure.</li> </ul>	Prior to construction	Once				
	<ul style="list-style-type: none"> <li>▪ Implement the provisions of the plan as necessary</li> </ul>	Ongoing throughout construction	Continuously				

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<p>demolition work to protect workers and the public;</p> <ul style="list-style-type: none"> <li>▪ Prescribe sampling protocols to properly characterize suspected contaminants;</li> <li>▪ Specify contaminant thresholds at which regulatory agency (e.g., Marin County Certified Uniform Program Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control) notification is required;</li> <li>▪ Incorporate all mitigation measures/conditions of approval addressing dust control;</li> <li>▪ Identify personnel to be notified and provide emergency contact information; and</li> <li>▪ Prescribe handling protocols for suspected contaminants and appropriate disposal procedures.</li> </ul> <p>The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval. The plan shall be peer reviewed by a third-party contractor hired by the City at the developer's expense to confirm the plan is acceptable.</p>							
<b>HAZ 3: Dust Mitigation</b>							
<p>During construction, the developer shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the project. Basic measures shall include, at a minimum:</p> <ul style="list-style-type: none"> <li>▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and</li> </ul>	<ul style="list-style-type: none"> <li>▪ Require the construction contractor's contract to include the BAAQMD's Basic and Additional Construction Mitigation Measures.</li> <li>▪ Verify these BAAQMD measures are adhered to</li> </ul>	<p>Prior to the start of construction</p> <p>During project construction</p>	<p>Once</p> <p>Continuously during project construction</p>	<p>City of Novato Community Development Department – Planning Division and Building Division, Novato Public Works</p>			

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<p>unpaved access roads) shall be watered three times per day.</p> <ul style="list-style-type: none"> <li>▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>▪ All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>▪ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</li> <li>▪ All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>▪ Post a publicly visible sign with the name and telephone number of the contractor’s representative to contact regarding dust complaints. This person shall respond and</li> </ul>	<p>during construction activities.</p>			<p>Department, Developer, and On-site Construction Manager</p>			

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<p>take corrective action within two hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.</p> <p>Additional measures shall include, at a minimum:</p> <ul style="list-style-type: none"> <li>▪ All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.</li> <li>▪ Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.</li> <li>▪ The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</li> </ul>							
<b>HAZ-4: Soil Vapor Barrier Installation</b>							
<p>The developer shall design and implement engineering measures or institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control’s (DTSC’s) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City’s Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the developer’s</p>	<ul style="list-style-type: none"> <li>▪ Retain a qualified third-party contractor to review the developer’s engineering design for installation of an adequate soil vapor barrier.</li> <li>▪ Verify, via a written report, that the developer has retained a qualified professional to certify the installation of the soil vapor barrier.</li> <li>▪ Review certification documentation for installation and efficacy</li> </ul>	<p>Prior to grading and building permit approval</p> <p>Prior to issuance of occupancy permits</p> <p>At release of occupancy of each building.</p>	<p>Once</p> <p>Once</p> <p>Once</p>	<p>City of Novato Community Development Department – Planning Division and Building Division, Developer, and On-site Construction Manager</p>			

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<p>expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.</p> <p>The developer and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department. The efficacy of the measures and controls shall be confirmed and certified by a qualified professional pursuant to the construction quality assurance/ quality control testing guidance of the Department of Toxic Substances Control’s (DTSC’s) Vapor Intrusion Guidance Document – Final (October 2011).</p>							
<b>Transportation</b>							
<b>TRA-1: Landscaping at Project Driveway</b>							
<p>The applicant shall ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements.</p>	<ul style="list-style-type: none"> <li>▪ Verify landscaping plans near the project driveway do not include shrubs exceeding three feet in height.</li> <li>▪ Confirm landscape installed reflects approved landscaping plan.</li> </ul>	<p>Prior to issuance of building permits</p> <p>At release of occupancy</p>	<p>Once</p> <p>Once</p>	<p>City of Novato Community Development Department – Planning Division, Developer, and On-site Construction Manager</p>			

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
<b>TRA-2: Project Driveway Curbs</b>							
The applicant shall ensure that on-street parking within the project site driveway shall be prohibited and marked by red curbs. Prior to project construction, the applicant shall submit to the City Planning Division plans showing this design.	<ul style="list-style-type: none"> <li>Verify on-street parking is not allowed at the project driveway on the building permit plans</li> </ul>	Prior to construction permit approval	Once	City of Novato Community Development Department – Planning Division, Novato Public Works Department, Developer, and On-site Construction Manager			
	<ul style="list-style-type: none"> <li>Verify proper signs and/or curb markings have been installed.</li> </ul>	At release of occupancy	Once				
<b>Tribal Cultural Resources</b>							
<b>TCR-1: Unanticipated Discovery of Tribal Cultural Resources</b>							
If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist	<ul style="list-style-type: none"> <li>Require, in the construction and grading permits, that all work be halted if tribal cultural resources are encountered and a qualified archeologist and Native American representative is contacted to evaluate the find.</li> </ul>	Prior to construction and grading permit approval	Once	City of Novato Community Development Department – Planning Division, Developer, and On-site Construction Manager			
	<ul style="list-style-type: none"> <li>Construction personnel monitor for suspected cultural resources.</li> </ul>	Ongoing throughout grading and excavation work	Continuously				

Mitigation Measure/ Condition of Approval	Action Required	When Monitoring to Occur	Monitoring Frequency	Responsible Parties	Compliance Verification		
					Initial	Date	Comments
and the appropriate Native American tribal representative.							
<b>Utilities and Service Systems</b>							
<b>USS-1: Payment of Assessment Fee and Connection Charges</b>							
Prior to construction activities commencing, the applicant shall pay a fair share fee to the NSD for the necessary capacity improvement of upsizing 1,180 feet of pipe from 15-inches in diameter to 18-inches in diameter pursuant to the District’s adopted Collection System Master Plan.	<ul style="list-style-type: none"> <li>Verify the applicant paid a fair share fee to the NSD.</li> </ul>	Prior to construction and grading permit approval	Once	City of Novato Community Development Department – Planning Division, Novato Sanitary District, and Developer			

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 APPLICABLE TO THE PARCEL AT 802 STATE ACCESS ROAD, APN 157-970-03, FROM COMMUNITY FACILITIES (CF) TO MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL (R10).

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

WHEREAS, the City of Novato ("City") received an application (P2020-009) from City Ventures ("Applicant") proposing to amend the General Plan Land Use Map (Land Use Map LU 1) to change the land use designation assigned to the parcel at 802 State Access Road, APN 157-160-18 ("Project Site") from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) ("Amendment"), 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 master plan amendment, a precise development plan, design review, a vesting tentative map, , and has requested a grant of easements to support development of a 75-unit residential condominium project ("Other Entitlements"). Collectively, the Other Entitlements and the Amendment are referred to herein as the "Project"; and

WHEREAS, the City determined that the Project are subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended for approval by the Design Review Commission at its public hearing of December 18, 2019 served as the Project to be analyzed pursuant to CEQA; and

WHEREAS an Initial Study/Mitigated Negative Declaration ("IS/MND") was prepared in compliance with the provisions of California Environmental Quality Act ("CEQA"), and the City of Novato Environmental Review Guidelines. The Initial Study considered the Project Site and its setting and the potential effects of and the Project on the basis of the technical subjects (e.g., aesthetics, air quality, biological resources, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA topical areas of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to less-than-significant levels; and

WHEREAS, on the basis of the findings of the Initial Study, the City prepared a Mitigated



Negative Declaration in compliance with CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the IS/MND; and

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

WHEREAS on October 2, 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, on November 6, 2019, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, massing, and conceptual architecture proposed for the Project; and

WHEREAS, on December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, massing/height, and conceptual architecture and landscaping; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed IS/MND prepared for the Project were sent to all affected property owners within 600-feet of the boundaries of the Project Site, 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 a 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 Amendment at issue herein.

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, including the Amendment (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) Original Master Plan (Master Plan for the Hamilton Field DODHF Property) and its related EIR (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, including the Amendment (7) all documentary and oral evidence received at public workshops, meetings, and hearings on the Project, including the Amendment (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

### **Section 3. Findings**

The Planning Commission hereby makes the following findings as required by Section 19.56.070.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 applied to the Project Site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10), as depicted in **Exhibit A**, attached hereto and incorporated herein by reference. This action is intended to permit construction and operation of the Project.

The construction and operation of the Project 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 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;

**Facts in Support:** Approval of the Amendment would result in the assignment of the R10 land use designation to the Project Site. This action is intended to support the construction and operation of the Project. A CEQA IS/MND was prepared for the Project, including the Amendment, to determine if approval of this request and subsequent construction and operation of the Project, respectively, 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 Project, including the Amendment 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 Amendment and subsequent construction and 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 construction and 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, which includes the Amendment was presented to the Novato Design Review Commission on November 6, 2019, and December 18, 2019. The purpose of the review was to provide a recommendation to the Planning Commission and City Council regarding whether the Project's anticipated use and associated design components would be compatible with the Project Site and its surrounding context. The Design Review Commission's recommendation is intended to inform the Planning Commission and City Council's consideration of the Project, including the Amendment.

On December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, massing, and conceptual architecture and landscaping for the Project. The Design Review Commission's recommendation was based upon the required findings for Design Review, including applicable design related policies of the Novato General Plan.

The Project would receive water service from the North Marin Water District and sewer service from the Novato Sanitary District. Referrals were sent to both Districts describing the proposed Amendment and the accompanying Project, including plan documents. Both North Marin Water District and Novato Sanitary District indicated they will serve the Project. However, the Novato Sanitary District indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, adopted as a condition of approval of the Project, requires the Applicant to pay a fee to the Novato Sanitary District (NSD) to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

A CEQA IS/MND was prepared for the and the Project, including the Amendment to determine if approval of these requests would result in significant impacts to the environment. This analysis

included the review of various technical topics addressing public interest, health, safety, convenience, and welfare, including that of 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 Project, including the Amendment 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 observations above, the Amendment is consistent with Finding No. 4.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the Amendment as set forth in **Exhibit A**, attached hereto and incorporated herein by reference, to change the land use designation assigned to the parcel at 802 State Access Road, APN 157-970-03 from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) 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 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 decision(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 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 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 Land Use Map Amendment, 802 State Access Road, APN 157-970-03

Exhibit B – General Plan Amendment Consistency Findings

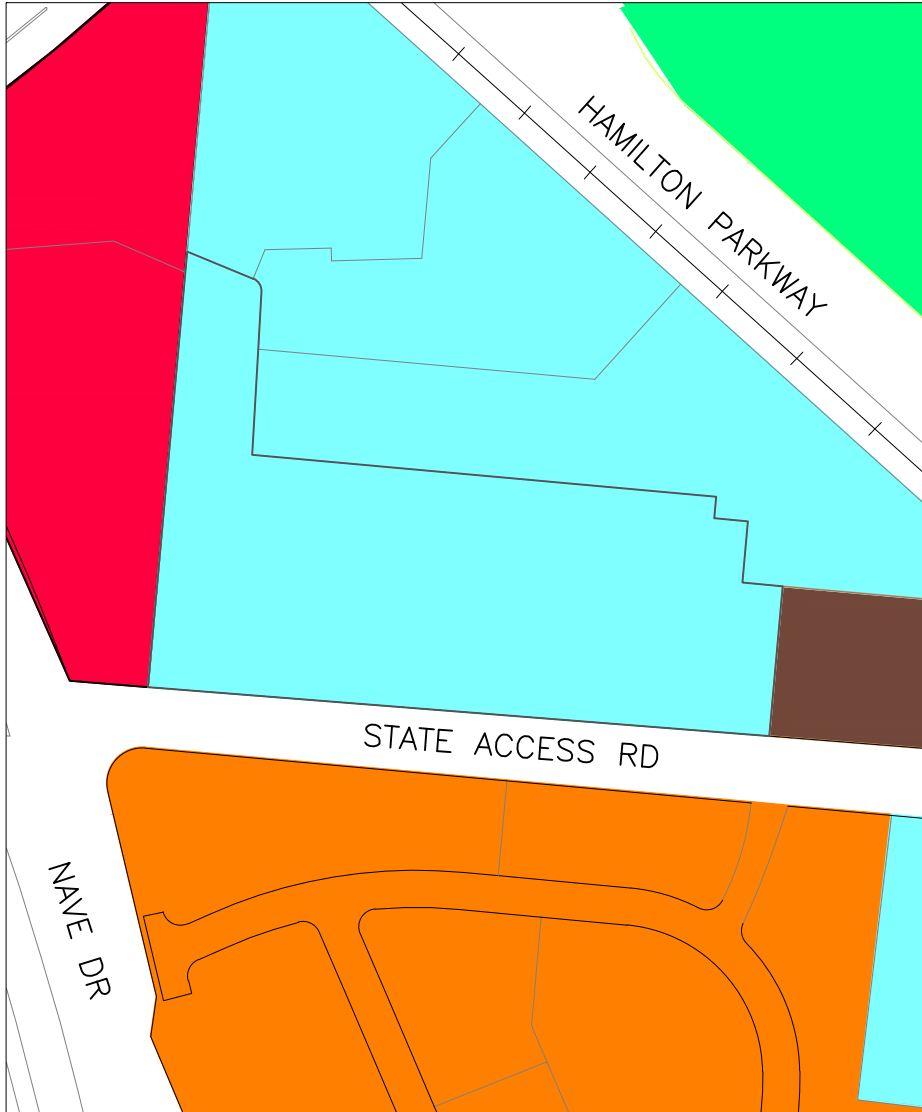
Reference: P2020-009

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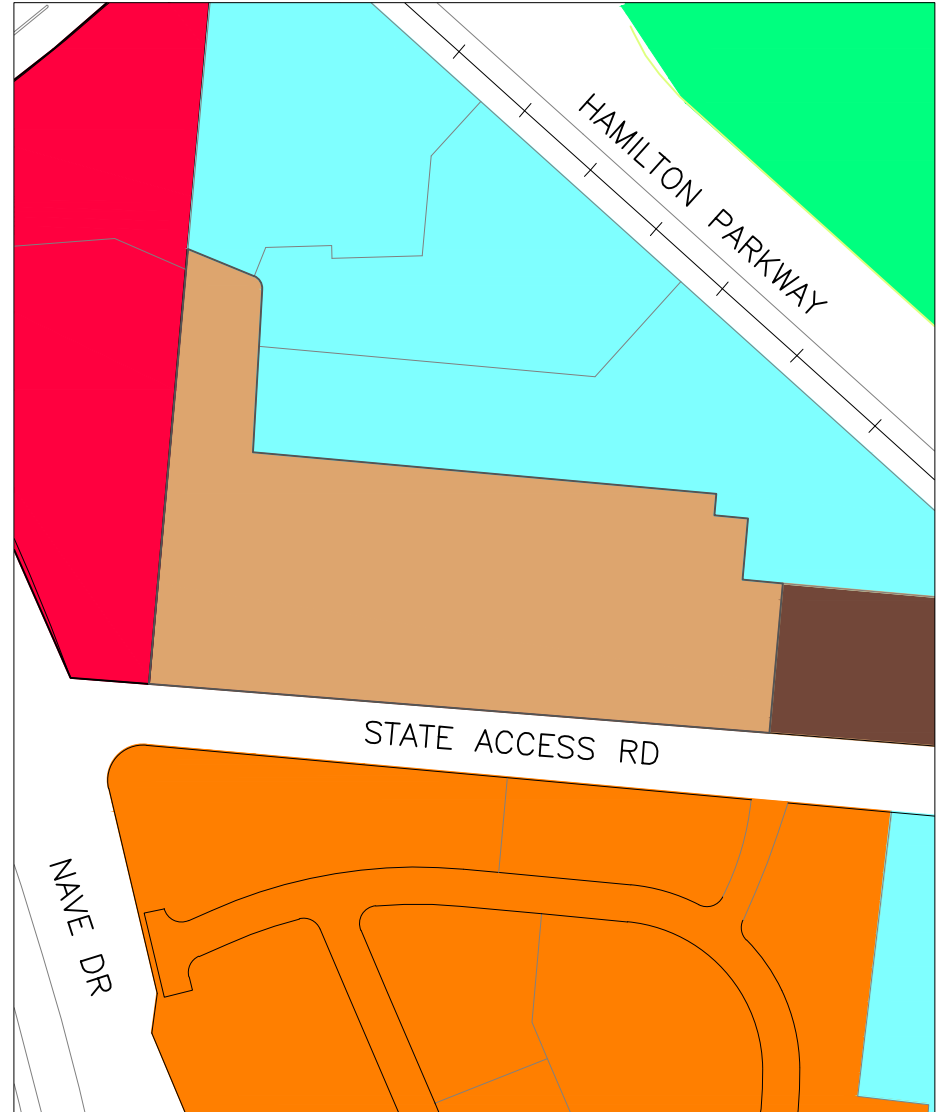
# Hamilton Village

## General Plan Land Use Map Amendment - Exhibit A

Existing



Proposed



### Legend

-  Community Facilities (CF)
-  General Commercial (CG)
-  Parkland (P)
-  Medium Density Residential (R5)
-  Medium Density Multiple Family Residential (R10)
-  High Density Multiple Family Residential (R20)

## **EXHIBIT B**

### **HAMILTON VILLAGE**

### **NOVATO GENERAL PLAN CONSISTENCY FINDINGS**

#### **1996 NOVATO GENERAL PLAN**

##### ***LAND USE CHAPTER***

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

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

*Facts in Support (LU Policies 1 and 2):* The Project includes a general plan amendment to change the land use designation of the site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10). The Project consists of constructing and operating residential condominiums consistent with the R10 land use designation. Upon approval of the requested project entitlements, including the noted general plan amendment, the Project will be consistent with the R10 land use designation and with all other applicable general plan policies, as described in further detail below.

The R10 land use designation permits multi-family residential uses, including condominiums and townhomes, within a density range of 10.1 to 20.0 dwelling units per acre. The Project is consistent with this land use designation since it involves the construction of residential condominiums at a density of approximately 15.9 units per acre.

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

**LU Policy 7 Growth Management.** Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

*Facts in Support:* The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water,



sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the project. All other utilities including electricity, gas, cable, internet, and telephone service are located in the State Access Road right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis. However, the Novato Sanitary District (NSD) indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, adopted as a condition of approval of the Project, requires the Applicant to pay a fee to NSD to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

Based on the analysis in the IS/MND prepared for the project, incorporated herein by reference, and the observations above, the Project is consistent LU Policy 7.

## ***TRANSPORTATION CHAPTER***

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

*Facts in Support:* The CEQA MND/IS prepared for the Project analyzed the potential for the Project to create safety hazards related to roadway operations. This analysis considered the location and design of frontage improvements, the driveway serving the Project, and the proximity of nearby driveways serving Lanham Village and Novato Village senior apartments. The analysis determined the driveways serving the Project have been designed to provide adequate site distance allowing drivers to enter and exit the Project Site with unobstructed views onto State Access Road. To ensure that adequate visibility along the driveway serving the Project is maintained, the IS/MND includes Mitigation Measures TRA-1. Mitigation Measure TRA-1 requires landscaping along the project driveway not to exceed a height of 3-feet to ensure visibility for vehicles entering and exiting the driveway.

The IS/MND also includes Mitigation Measure TRA-2 to ensure that emergency vehicles can access the Project Site through the Project drive aisles. Mitigation Measure TRA-2 requires the drive aisle curbs to be painted red to prohibit vehicle parking with the drive aisle area to ensure adequate emergency vehicle ingress and egress.

The Project includes a request for a private access easement over small segment of city-owned property identified as APN 157-970-07 located at northeast corner of the Project Site at the entrance to the reciprocal emergency vehicle access easement. The private access easement would allow widening of a drive aisle in the Project to accommodate project related traffic, as well as

accommodating the turning movements of emergency vehicles serving the Project and entering and exiting the EVA. This easement will ensure adequate on-site circulation, as well as sufficient emergency access.

Based on the findings of the traffic analysis presented in the IS/MND, the Project is consistent with TR Policy 11.

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

*Facts in Support:* The Applicant is responsible for construction of full street improvements along the Project Site's frontage with State Access Road as indicated on the Project plans. These improvements would consist of curb, gutter, sidewalk, and any work necessary to correct or improve the existing paved sections of State Access Road within the limits of the Project Site's frontage. The Project's plans delineate the location and general design of the frontage improvements required for the Project, including a new sidewalk segment between Novato Village senior apartments to the south and Nave Drive to the west. The proposed sidewalk improvement will offer safer and more convenient pedestrian access to existing residents in the area and new residents of the Project. Accordingly, the Project is consistent with TR Policy 22.

## ***HOUSING CHAPTER***

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

*Facts in Support:* The Project Site is an undeveloped and partially paved lot. Novato Village senior apartments are located to the east, Christmas Tree Hill (undeveloped rock outcropping) is immediately west of the Site, Lanham Village (residential condominiums) is to the south, and former military warehouses and Homeward Bound of Marin's homeless services facilities are located to the north.

The Project's buildings and landscaping have been designed in a manner consistent with of the neighboring Novato Village senior apartments and that of the greater Hamilton area, including the use of Spanish themed architecture and the creation of internal courtyards, pedestrian paths, and a central outdoor space. The Project's building height (40-feet) would be taller than nearby development, however architectural elements including varying wall planes and recesses break up the façade of the buildings and create visual interest to reduce apparent height, bulk and mass of the Project. These design elements avoid buildings with a tall, flat appearance. Given the 80-foot right-of-way of State Access Road, and existing mature trees located along the south side of the road, Hamilton Village should not feel imposing to residents in the one- and two-story residences across the street in Lanham Village. Further, the Project is separated from Novato Village (30-foot building height) by approximately 20-feet, which is an acceptable distance to allow the Project's multi-story development.

The Applicant has designed the Project, including landscaping and tree planting at the perimeter of the site, in a manner intended to soften the appearance of the structures from surrounding areas

by breaking up wall planes with interesting architecture and strategically diffusing views of buildings with new tree plantings. In addition, the Project creates a desirable presence of building facades and landscaping at the edge of State Access Road that would improve the appearance and experience of travelling along this roadway. Based on the design features described above, the project is consistent with HO Policy 3.2.

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

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story stepbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.
- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

*Facts in Support:* The Project includes various design elements consistent with the design principals of Housing Policy 3.3, including:

- Building materials consisting of concrete tile roofing, decorative foam accent gables, stucco exterior, pot shelf and window accents, shutters, and roll-up garage doors, providing visual interest and building articulation.
- Articulated elevations featuring wall projections and recesses, as well as varying roof styles and patterns, and separations between buildings which reduce the apparent height, bulk and mass of the buildings.
- The reduced front setback along State Access Road which activates the streetscape and creates a sense of community by conveying more of a neighborhood street feeling. Breaks are included between the buildings located along the State Access Road frontage, thereby reducing perception of mass from the street.

- A central entryway is oriented toward State Access Road, which leads directly into a large central open space area, creating a focal point, and reducing the apparent height, bulk and mass of buildings.
- Building facades are not dominated by garages, and balconies and/or trellis structures are incorporated above the garages on the majority of buildings to offset the prominence of the garage door. Placement of the on-site uncovered parking stalls are located towards the rear of the site and are screened from view.

**HO Policy 4.2 Renewable Energy Technologies.** Promote the use of sustainable and/or renewable materials and energy technologies (such as solar and wind) in new and rehabilitated housing when possible.

*Facts in Support:* The Project includes a 2-kilowatt photovoltaic system for each residential unit and is therefore consistent with HO Policy 4.2.

**HO Policy 6.1 Transit-Oriented Development.** Encourage Multi-family Development within an easy walking distance to transit access points – a station or location served by one or more transit lines – where reduced automobile usage and parking requirements are possible. Maximize the use of these limited land resource sites to reduce overall energy, land, water and other costs.

*Facts in Support:* The Project would develop 75 multi-family residential units, including 15 affordable units, within one-half mile of the Hamilton SMART rail station and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 6.1

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

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

*Facts in Support:* The Project would provide 75-units of ownership, multi-family housing featuring small and large units located within one-half mile of the Hamilton SMART rail station

and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 7.2

**HO Policy 9.1 Flexibility and Incentives in Development Standards.** The City will seek ways to promote housing, such as increased FAR, height limits and density, and reduced parking, based on the location and design of the development, compatibility with adjacent uses, and the type, size, and income levels of the occupants of the housing. The purpose of this policy is to recognize that smaller, more affordable housing located near transit, jobs and services will generate fewer trips, require less parking, and have fewer area-wide impacts.

*Facts in Support:* The Project includes requests to allow increased building height, reduced parking, and flexibility on setbacks to accommodate 75 multi-family units, including 15 affordable units. These requests are based on the need maintain the proposed unit count to support the provision of the noted affordable units, providing generous common outdoor facilities for residents, and constructing an approximately 1-acre private park available for public use. Therefore the Project is consistent with HO Policy 9.1.

**HO Policy 10.1 Inclusionary Housing Approach.** To increase workforce affordable housing construction, the City will continue to require residential developments to provide a percentage of units or an “in-lieu” or other fee for very low, low and moderate income housing. The units provided through this policy are intended for permanent occupancy and must be deed or rent restricted, including but not limited to single family housing, multi-family housing, condominiums, townhouses, and apartments.

*Facts in Support:* The Project, consistent with HO Policy 10.1 and Novato Municipal Code Division 19.24, *Affordable Housing Requirements*, provides 15 affordable condominium units for buyers of low (8 units) and moderate (7 units) income. These units will be subject to an affordable housing agreement and associated deed restriction to ensure long-term affordability.

## ***ENVIRONMENT CHAPTER***

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

*Facts in Support:* The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section 10, Hydrology and Water Quality of the IS/MND, the Project would be required to comply with the City of Novato’s stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), as well as the requirements of NMC Chapter 7-4, *Urban Runoff Pollution Prevention* and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

The Novato Public Works Department is requiring the Project comply with numerous water quality related conditions of approval. These conditions require the developer to create a Stormwater Control Plan based on the Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. A SWPPP is required to reduce potential adverse impacts to surface

water quality through the Project's construction period. The SWPPP shall include the minimum Best Management Practices (BMPs). These include BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

Based on the facts above, the Project is consistent with EN Policy 7.

**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 of 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:* The CEQA IS/MND prepared for the project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in Section 4, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1, the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffer areas and presence of a biological monitor on the construction site to ensure construction activities take place outside of the buffer area.

Based on the findings of the CEQA IS/MND and the noted mitigated measure, the Project is consistent with the and advance EN Policies 18 and 19.

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

*Facts in Support:* A total of 25 trees are currently present at the Project Site and have trunk diameters ranging in size from 6- to 54-inches. All of the trees on the Project Site will be removed, some due to poor health as evaluated by a certified arborist, and the remainder due to construction impacts. The trees to be removed include four (4) heritage trees, which are described in Table 2 below:

**Table 1**

<b>Type</b>	<b>Diameter</b>	<b>Health*</b>
Coast Live Oak	31-inches	Good
Aleppo Pine	35-inches	Marginal
Aleppo Pine	54-inches	Marginal
Aleppo Pine	45-inches	Marginal

\**Good*: health is average, with no significant signs of pest or disease.

*Marginal*: health is compromised and distress is visible, such that the tree may not survive.

Tree removal to accommodate new development is not prohibited by the General Plan or Zoning Ordinance, and is considered on a case-by-case basis when a proposed project is subject to discretionary review. Notably, the Project includes planting of over 120 trees along the perimeter and throughout the interior of the Project Site. Based on the tree replacement ratio, the Project is consistent with EN Policy 26.

**EN Policy 29 Energy Conservation Measures in Buildings.** Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

*Facts in Support:* The Project will be designed to meet the requirements of the California Building Code and Title 24 of the California Code of Regulations. The Project’s construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of the building permit. Additionally, the Project includes solar panels for each unit, and well as all electric appliances. Each garage is wired to allow Electric Vehicle (EV) charging, and there will be an option for future owners to purchase a solar battery to better utilize the solar system.

Based on the noted facts above, the Project is consistent with and advances EN Policy 29.

**EN Policy 35 Watershed Management.** Minimize the effects of pollution in stormwater runoff. Retain and store where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

**EN Policy 37 Using CEQA to Reduce Water Quality Impacts.** Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

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

State law.

*Facts in Support:* The Project includes individual solid waste and recycling storage for each of the proposed units, consistent with EN Policy 39.

**EN Policy 44 Park and Recreation Facilities.** Develop and maintain to the maximum extent possible given available resources a system of parks to meet the needs of Novato residents.

*Facts in Support:* The Project includes a 1.1-acre private park to be developed with outdoor amenities, including bocce ball courts, a children's play area, community garden beds and meditation garden. The park will serve future Project residents and the general public, as offered by the Applicant. A condition of approval requiring dedication of a public access and use easement has been applied to the Project to ensure the park is available for public use in perpetuity. The Project is considered to be consistent with EN Policy 44.

## ***SAFETY AND NOISE CHAPTER***

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

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

*Facts in Support:* Seismic hazards and soil stability are addressed in Section 7, Geology and Soils, of the CEQA IS/MND prepared for the Project. The analysis contained in the IS/MND determined the Project would likely be subject to liquefaction during a seismic event due to the presence of liquefiable soils on the Project Site as identified during the geotechnical investigation. There is also the potential for rock fall and lateral spreading, phenomena that are often associated with liquefaction. Mitigation Measure GEO-1 is recommended to reduce risks to people and improvements at the site. Mitigation Measure GEO-1 requires all recommendations found in the Geotechnical Investigation prepared for the Project to be included as conditions of approval and implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: grading, surface and subsurface drainage, bio-filtration facilities, foundations, miscellaneous concrete flatwork, retaining walls and foundations, pavement areas, utility trenches, and project review and construction monitoring. Furthermore, application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., California Building Code, City ordinance and conditions of approval) would further reduce seismic hazards.

Based on the facts above, the Project is consistent with and advance SF Policies 1 and 3.

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

*Facts in Support:* As described in Section 10, Hydrology and Water Quality of the CEQA



IS/MND, the Project's drainage system has been designed to meet the City's criteria for drainage and flood control. Specifically, the drainage system proposed would be sufficient to contain a 25-year peak storm event, and the capacity of the existing storm drain system can support the additional runoff from the Project during a 25-year storm event. Additionally, a grass swale in the center of the Project would provide stormwater management and proposed grading would drain stormwater to the proposed storm drainage system prior to connecting to existing stormwater drain systems along the east side of the property. Additionally, the Project would be required to comply with NMC 7.4, Urban Runoff Pollution Prevention, requiring the project to be designed to control runoff volume to the maximum extent feasible through such features as the on-site bioretention (grassy swale) features identified in the Project plans and subject to conditions requiring a stormwater control plan and stormwater management agreement with maintenance by the HOA.

The IS/MND identified that the project would not increase the rate or amount of surface runoff in a manner resulting in flooding or exceeding the capacity of the storm drainage system. Based on these observations, the Project is consistent with SF Policy 9.

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

**SF Policy 17 Level of Fire Protection.** Work with Novato Fire Protection District to help ensure a continued high level of fire protection.

*Facts in Support:* The Project was referred to the Novato Fire Protection District for review and comment on fire and emergency safety issues. The Novato Fire Protection District submitted comments and recommended conditions of approval for the Project and will review the construction level design plans prepared for the Project to ensure the development includes all necessary fire suppression and vehicle access features.

As described in Section 20, Wildfire, of the CEQA IS/MND, the Project Site is not located in an area with high fire risk, and no mitigation is required to reduce the risk of fire.

The Project includes granting and receiving a reciprocal emergency access (EVA) easement to provide optimal emergency access for the Project and the adjoining City properties (APNs 157-970-05, -06, and -07) leased by Homeward Bound of Marin. This easement will ensure the Novato Fire Protection District has adequate access to serve the Project and the Homeward Bound or Marin's existing and proposed homeless services facilities.

Based on these observations, the Project is consistent with SF Policies 16 and 17.

**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**

<b>Residential Development</b>	<b>Up to 60 dB</b>
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 13, Noise, of the CEQA IS/MND, the existing ambient noise level at the Project Site is 58 dBA Leq. This noise level is within the noise range specified in SF Table 3 and residential use of the property is compatible with the existing noise environment of the Project Site consistent with SF Policy 37.

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

*Facts in Support:* As described in Section 13, Noise, of the CEQA IS/MND, construction of the Project could temporarily expose nearby sensitive receptors at Lanham Village and Novato Village to increased noise levels exceeding the exterior noise level threshold for residential land uses as shown in SF Table 3, above. However, NMC 19.22.070, Noise and Construction Hours, permits authorized construction activities to exceed these noise thresholds when construction occurs between 7:00 am and 6:00 pm on weekdays, and 10:00 am and 5pm on Saturdays. Construction is not permitted on Sundays, nor on federal holidays. A condition of approval will be included requiring construction of the Project to adhere to the provisions of NMC 19.22.070, ensuring construction noise will be less than significant to nearby sensitive receptors.

Sources of noise associated with operation of the Project include rooftop heating, ventilation, and air conditioning (HVAC) equipment, parking lot vehicle activity, and solid waste and recycling collection. This noise would be similar to existing noise produced by surrounding residential uses. As analyzed in the IS/MND, noise produced by vehicles in the parking area and traffic would be less than significant to nearby residential uses due to distance. On-site mechanical noise would be mitigated by the Project design, which includes 30-inch tall parapet walls on all rooftops, reducing noise produced by HVAC equipment by 10 dBA. The IS/MND analysis determined the HVAC equipment noise would be less than 60 dBA, consistent with the noise threshold identified in SF Table 3.

Based on these observations, the Project is consistent with SF Policy 38.

## ***PUBLIC FACILITIES AND SERVICES CHAPTER***

**PF Policy 5 Potable Water.** Ensure adequate water supply for new and existing development.

**PF Policy 6 Water Conservation.** Develop and implement water conservation programs in Novato.

*Facts in Support:* The Project was referred to the North Marin Water District (NMWD), which would provide potable and recycled water service to the Project for review and comment. The existing recycled water distribution main located at State Access Road must be extended to the Project to serve new landscaping. The Project may connect to the District's potable and recycled water systems by executing an agreement for service, paying connection fees, and installing lateral service lines. NMWD also requested that above-ground reduced pressure principal backflow prevention devices at the water meters be installed. The Project must also comply with the District's water conservation ordinance, Regulation No. 15, which addresses plumbing fixtures, landscaping species selection, and irrigation features intended to reduce potable water consumption.

NMWD's requested improvements are included in the Precise Development Plan as conditions of approval applicable to the Project. Compliance with these conditions of approval will be reviewed through the local building permit review process.

Based on the observations above, the Project is considered to be consistent with PF Policies 5 and 6.

## ***COMMUNITY IDENTITY CHAPTER***

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

*Facts in Support:* Please see the discussion for Housing Policies 3.2 and 3.3, above.

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

*Facts in Support:* The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. The project is required to connect into the Water District's recycled water line for landscape irrigation.

Based on the observations above, the Project is consistent with CI Policy 7.

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

*Facts in Support:* All existing overhead utilities at the Project Site will be placed underground consistent with the requirements of Chapter V of the Novato Municipal Code. Therefore, the Project is consistent with CI Policy 9.

**CI Policy 12 Parking Standards.** Reduce the visibility of parking facilities and the amount of land necessary for them to maximum extent feasible.

*Facts in Support:* The Project has been designed to include a two-garage for each residential unit. Additionally, the majority of the on-site uncovered parking stalls are located at the rear of the site. A five-foot wide landscape planter and fencing would be located between the parking and the rear property line to screen parked vehicles from the property to the north. The parking would not be visible from State Access Road due to distance and buildings/landscaping screening. Parking is proposed along State Access Road that is open to both residents and guest of the Project, as well as to the general public to utilize the public park portion of the Project. On-street parking will utilize the existing right of way width of State Access Road, and street tree planting is proposed adjacent to these parking stalls. Therefore, the Project is consistent with CI Policy 12.

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

*Facts in Support:* The Project provides a variety of outdoor use and landscape spaces for residents, including a private balcony for each unit, a private patio for the majority of units, and approximately 28,000 square feet of common open space. Common open space amenities include a meditation garden, botanical garden, outdoor cooking and seating areas, picnic tables, fire tables, and landscaping. Additionally, the Project includes a 1.1-acre park on the Project Site that will be available to residents of Hamilton Village, and will be open to the general public. Park amenities include a community garden, bocce ball courts, children's play area, landscaping, and safety fencing. The total amount of open space per unit exceeds the 300-square feet of open space per unit required by the Novato Municipal Code for multi-family projects.

Based on these observations, the Project provides adequate landscaped, open space areas consistent with CI Policy 14.

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

*Facts in Support:* Please refer to the response to TR Policy 22, above.

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

*Facts in Support:* Rincon Consultants completed a search of the California Historical Resources Information System (CHRIS) at the Northwestern Information Center (NWIC) located at Sonoma State University on January 3, 2020. The NWIC identified 54 previously cultural resources studies previously performed within 0.5-mile of the Project site, as well as five (5) cultural resources

recorded within 0.5-mile of the Project site. Additionally, the Project Site previously contained the commissary building for Hamilton Army Airfield. The Hamilton Army Airfield Discontinuous Historic District, located .05-mile east of the project site is recorded as an National Register of Historic Place (NRHP) -listed historic district, however the district boundary does not include the Project Site. Furthermore, the commissary building was demolished in 2010.

The Native American Heritage Commission (NAHC) informed Rincon that the Sacred Lands File check was completed with positive results for a site within the project vicinity, but not the Project Site itself. The NAHC provided Rincon with a list of Native American tribes culturally affiliated with the nearby sacred lands site. However, the Federated Indians of Graton Rancheria (FIGR) did not indicate the presence of any Native American Resources within the Project Site. Additionally, an archeological field survey was conducted by a qualified Rincon archaeologist on January 17, 2020. No archeological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) and Assembly Bill 52 applies to the Project. 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 November 14, 2019, and by the Guidiville Band of Pomo Indians on November 15, 2019. The City of Novato did not receive a request for consultation from either group.

The potential exists for encountering previously undiscovered archeological resources during construction and earth-moving activities associated with the Project. To ensure that impacts to cultural resources remain less-than-significant, the IS/MND prepared for the Project provides Mitigation Measures CUL-1 and TCR-1 requiring the following:

**Mitigation Measure CUL-1:** If cultural resources are encountered during ground-disturbing activities associated with construction of the Project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans. Implementation of Mitigation Measures CUL-1 would reduce potential impacts to unanticipated archeological resources to less than significant.

**Mitigation Measure TCR-1:** If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American

groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative. 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 consistent with CI Policy 30.

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

*Facts in Support:* The Applicant has indicated that public art in compliance with the City's Art Program, Division 19.21 of the Zoning Ordinance, will be provided as part of the Project. Staff is recommending a condition of approval that the Applicant fulfill the requirements of the Art Program prior to issuance of a building permit for the Project. Based on the observations above, the Project is consistent with CI Policy 32.

PLANNING COMMISSION RESOLUTION

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

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT AMENDMENTS TO THE CITY OF NOVATO ORDINANCE NO. 1419 APPROVING THE MASTER PLAN FOR THE HAMILTON FIELD DODHF PROPERTY, CONSISTING OF THE HAMILTON REUSE PLAN, TO ASSIGN THE MEDIUM DENSITY MULTIPLE FAMILY RESIDENTIAL (MDMFR) LAND USE CATEGORY TO THE PARCEL AT 802 STATE ACCESS ROAD, APN 157-970-03, AMENDING THE HEIGHT LIMIT APPLICABLE TO THE PROJECT SITE, AND ADDING TEXT RECOGNIZING FOR PROFIT MULTI-FAMILY HOUSING AS AN ACCEPTABLE LAND USE ON SAID PARCEL IN ACCORDANCE WITH THE CITY OF NOVATO MUNICIPAL CODE, CHAPTER XIX, AND THE CONSERVATION AND PLANNING LAW OF THE STATE OF CALIFORNIA

WHEREAS, the City Council of the City of Novato (“City”) adopted Ordinance No. 1419 on November 6, 1999, approving the Hamilton Army Airfield Reuse Plan as the *Master Plan for the Hamilton Field Department of Defense Housing Facility Property* (“DODHF”), including the areas identified as “Navy Property (“Original Master Plan”);” and

WHEREAS, the City of Novato (“City”) received applications from City Ventures (“Applicant”) for a general plan amendment, master plan amendment, precise development plan, vesting tentative map, design review, and a request to grant easements for the proposed Hamilton Village project (“Project”) proposed to be located at 802 State Access Road, APN 157-970-03 (“Project Site”); and

WHEREAS, the Project Site is part of the “Navy Property” and is subject to the Original Master Plan; and

WHEREAS, the City received an application (P2020-009) proposing to amend the Novato General Plan Land Use Map (Land Use Map LU 1) to change the Project Site's land use classification from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) to accommodate the Project; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council approve amendment of the Novato General Plan Land Use Map to change the land use designation assigned to the Project Site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10) (“General Plan Amendment”); and

WHEREAS, the Original Master Plan is proposed to be amended to change the Master Plan Land Use (effectively the zoning applicable to the Project Site) from Community Facilities

Civic Uses – Special Use Permitted (CFCU-SP) to Medium Density Multiple Family Residential (“MDMFR”), amend the text of the Original Master Plan to acknowledge the development of multi-family housing at the Project Site within the Commissary Triangle Planning Area (Planning Area 4) of the Master Plan, and would modify the height limit assigned to the Project Site (collectively, “Master Plan Amendment”) . The Master Plan Amendment to MDMFR would render the zoning consistent with and permit the same multi-family residential land uses and density as the R10 land use designation of the Novato General Plan, as proposed in the General Plan Amendment recommended by separate action; and

WHEREAS, the City determined that the Project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended for approval by the Design Review Commission at its public hearing of December 18, 2019, served as the Project to be analyzed pursuant to CEQA; and

WHEREAS an Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared in compliance with the provisions of California Environmental Quality Act (“CEQA”) and the City of Novato Environmental Review Guidelines. The Initial Study considered the Project Site and its setting and the potential effects of the Project, including the Master Plan Amendment to accommodate the Project, and the construction and operation of the Project itself on the basis of the technical subjects (e.g., aesthetics, air quality, biological resources, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA topical areas of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to less-than-significant levels; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the IS/MND; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission recommended the City Council adopt the IS/MND prior to taking action on the Project; and

WHEREAS on October 2, 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, on November 6, 2019, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, massing, and conceptual architecture proposed for the Project; and



WHEREAS, on December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, massing, and conceptual architecture and landscaping; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed IS/MND and the Project were sent to all affected property owners within 600-feet of the boundaries of the Project Site, 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 a 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 Master Plan Amendment at issue herein.

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 decision on the Project, inclusive of the Master Plan amendments at issue herein, 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 and Project (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) Original Master Plan (Master Plan for the Hamilton Field DODHF Property) and its related EIR (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND and the Project (7) all documentary and oral evidence received at public workshops, meetings, and hearings regarding the IS/MND and the Project (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the city of Novato and its surrounding areas.

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

### **Section 3. Findings**

The Planning Commission hereby makes the following findings as required by Section 19.42.060.E.3. of the Novato Municipal Code with the respect to the Master Plan amendment:

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

**Facts in Support:** The proposed amendments to the Master Plan, as described in **Exhibit A**, would change the land use category (effectively the zoning) applied to the Project Site from Community Facilities Civic Uses – Special Use Permitted (CFCU-SP) to Medium Density Multiple Family Residential (“MDMFR”). The MDMFR land use category would permit multi-family residential uses at a maximum density level of up to 20-units per acre. The zoning definition and allowable development intensity specified for the MDMFR zoning category is consistent with and implements the Medium Density Multiple Family Residential (R10) land use designation of the Novato General Plan as recommended in the General Plan Amendment.

Additionally, the Master Plan text would be amended to acknowledge the development of multi-family housing at the Project Site within the Commissary Triangle Planning Area (Planning Area 4) of the Master Plan. These Master Plan Amendment as specifically described in **Exhibit A**, would permit construction of the Project at the Project Site. The Project includes the construction of 75 townhome style residential condominium units at the Project Site, representing a density of 15.9 units per acre, and would therefore be consistent with the uses and development intensity allowed under the proposed MDMFR zoning and the R10 land use designation of the Novato General Plan.

The Master Plan Amendment also includes modifying the building height limit applicable to the Project Site from 30-feet to 40-feet to accommodate the townhome style of the proposed condominium units, which feature two stories of living space over a garage. The Project was presented to the Novato Design Review Commission at two, separate public hearings. The Commission recommended the Planning Commission and City Council approve the Project, including increasing the height limit for the Project Site, on the basis the Project met the design related policies of the General Plan, as more fully described in **Exhibit B**.

The proposed Project, including the Master Plan Amendment, has been reviewed against applicable policies of the Novato General Plan, and found to be consistent with all applicable policies of the Novato General Plan as documented in **Exhibit B**, attached hereto and incorporated herein by reference. **Exhibit B** lists each applicable policy of the General Plan followed by facts supporting the Master Plan Amendment and the Project’s consistency therewith. Additionally, there is no specific plan applicable to the Project site.

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

**Facts in Support:** The Project was referred to the Novato Public Works Department, Novato

Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the project. All other utilities including electricity, gas, cable, internet, and telephone service are located in the State Access Road right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project Site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis. However, the Novato Sanitary District indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, to be adopted as a condition of approval of the Project's Precise Development Plan and Vesting Tentative Map, requires the Applicant to pay a fee to the Novato Sanitary District (NSD) to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

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

**Facts in Support (Findings 3 and 4):** The proposed Master Plan amendments would facilitate development of the Project, including construction and operation of 75 townhome units. The majority of the Project site is flat with the exception of 1.3 acres located adjacent to the Christmas Tree Hill parcel. The Project site is the former site of the base commissary and shops for Hamilton Army Airfield and is currently vacant. There are 18 trees on the site growing in groups along State Access Road. Four (4) of the trees are of heritage size (trunk diameter of 24-inches or great). There are no natural constraints on the site such as wetland features, however there is a 15-foot wide water line easement running the length of the western property line.

Existing surrounding land uses include the Novato Village senior apartments to the east, Lanham Village residential condominiums to the south of the site on the south side of State Access Road, and the Homeward Bound of Marin's New Beginnings Center and Next Key Center to the north which includes residential land uses. The parcel to the immediate west is currently vacant. Density levels of the nearby residential developments at Lanham Village, the Next Key Center, and the Novato Village senior apartments are 10, 17, and 29 dwelling units to the acre, respectively. As further described in **Exhibit A**, the Master Plan Amendment would assign the MDMFR land use category to the Project Site to facilitate the proposed Project, including the construction and operation of 75 residential townhomes. The Project would have a density of 15.9-dwelling units per acre. This density is within the range of densities of surrounding residential land uses, and the Project is not expected to adversely affect existing surrounding residential land uses with respect

to proposed density, project design, or operational characteristics based on the following observations:

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the proposed Master Plan amendments and the Project. The IS/MND was prepared to determine if the amendments to the Master Plan and subsequent construction and operation of the Project would result in potentially significant environmental impacts. This analysis included review of various technical topics addressing the compatibility of the Project with the Project site and its surrounding environment, including existing and future development in the area. In no instance did the IS/MND identify any significant impacts associated with the Master Plan Amendment or construction and operation of the Project that could not be mitigated to a less than significant level.

The findings of the IS/MND indicate the proposed land use and design of the Project would not significantly impact the existing residential land uses at the Novato Village senior apartments or Lanham Village, or the nearby Next Key Center. These findings confirm the suitability of the Project Site to accommodate the Project. Additionally, the IS/MND confirmed the Project is designed or can be mitigated properly to address physical characteristics of the Project including but not limited to design of the project to reduce potential circulation impacts, and utility infrastructure upgrades. The mitigation measures recommended by the IS/MND to reduce or avoid potential environmental impacts in the area of biological resources, cultural resources, geology/soils, hazards/hazardous materials, transportation, tribal cultural resources, and utilities/service systems are applied as conditions of approval to the Project.

The Project plans were referred to public agencies responsible for reviewing and providing services to the Project, including but not limited to the Novato Sanitary District, North Marin Water District, Novato Fire Protection District, Novato Building Division, Novato Public Works Department. These agencies had the opportunity to review and provide comment and conditions of approval for the Project intended to ensure the Project and its associated improvements are designed and constructed in a manner that is compatible with existing and future land uses in the surrounding neighborhood.

The Project was presented to the Novato Design Review Commission on November 6, 2019, at a design review workshop, and again on December 18, 2019, for a formal recommendation to the Planning Commission and City Council regarding whether the Project would be compatible with the Project site and surrounding area. The Design Review Commission recommended the Planning Commission and City Council approve the site design proposed for the Project, recognizing the Project's well resolved site plan, appropriate height and massing, and extensive landscaping, and architectural treatments.

Based on the observations above, the Project is considered to be consistent with Findings 3 and 4.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends the City Council approve the proposed amendments to the Master Plan, as more specifically detailed in **Exhibit A** attached hereto and incorporated herein by reference, based on the findings set forth herein and subject to the conditions of approval noted below:

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

1. The Project shall comply with the Conditions of Approval set forth in **Exhibit C** attached hereto and incorporated herein by reference.

## 2. 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 decision(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 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 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 – Amendments to the Master Plan for Hamilton Field DODHF Property for the Hamilton Village Project

Exhibit B – General Plan Consistency Findings

Exhibit C – Conditions of Approval

Reference: P2020-010

## EXHIBIT A

### HAMILTON VILLAGE

#### AMENDMENTS TO MASTER PLAN FOR THE HAMILTON FIELD DODHF PROPERTY COMMISSARY TRIANGLE; 802 STATE ACCESS ROAD, APN 157-970-03

##### Map Amendments:

1. Master Plan (Reuse Plan) Exhibit 13, *Reuse Plan Land Use Plan*, shall be amended as described on Exhibit A2 attached.
2. Master Plan (Reuse Plan) Exhibit 17, *Land Use Plan- Commissary Triangle and Exchange Triangle*, shall be amended as described on Exhibit A3 attached.

##### Text Amendments:

1. Section 3.4.1 *Residential Uses* shall be amended as follows to recognize the increased area and location of the MDMFR land use designation:

“The Medium Density Multiple Family Residential (MDMFR) is assigned to existing residential areas which are characterized by this density of residential development (such as Hillside Housing portion of Capehart Housing) and in new residential areas which would abut non-residential land uses. The residential home type which could be developed under this designation could range from attached units such as duplexes or townhomes to six-plexes. This category can accommodate special housing types such as seniors housing.

Land uses to be permitted include single-family detached and attached dwellings, home occupations, public parks and playgrounds, family size care facilities, family size day care homes, group care (i.e., seniors housing), attached units, nurseries and greenhouses.

Both common and private open space would be integrated into neighborhoods in this designation. Building heights would be limited to two stories with the exception of the buildings on the Commissary Parcel (802 State Access Road, APN 157-970-03), which is assigned a building height limit of 40-feet.

There are approximately ~~20.9~~ 25.6 acres of MDMFR designated in the Reuse Plan. Planning Areas with MDMFR designations include Rafael Village and Capehart Housing, and the Commissary Triangle Planning Areas 1, and 2, and 4, respectively. Rafael Village multiple-family residential will be limited to seniors housing.

2. Master Plan (Reuse Plan) Section 3.5.4, *Commissary Triangle (Planning Area 4)*, shall be amended to recognize the assignment of the Medium Density Multiple Family Residential (MDMFR) land use designation at the Commissary Triangle to read as follows:

“3.5.4. The land uses identified for the Commissary Triangle in the Reuse Plan are shown on Exhibit 17, *Land Use Plan – Commissary Triangle and Exchange Triangle*, and are summarized below:

- Community Facilities and Civic Uses – Special Uses Permitted (CFCU-SP): There are approximately ~~11.25~~6.54 acres of CFCU-SP designated land within this Planning Area. CFCU-SP includes all uses in the CFCU designation, in addition to the following special use: the Hamilton Service Center (an 80-bed emergency shelter housing facility).
- High Density Multiple Family Residential (HDMFR): There is approximately 1.65 acres of HDMFR designated land within this Planning Area. This designation is intended to permit the development of up to 48 senior apartment units within the area so designated on Exhibit 17 as amended. These apartment units shall be limited to primary occupancy by persons aged 55-years or older.
- Medium Density Multiple Family Residential (MDMFR): There are approximately 4.71 acres of MDMFR designated land within this Planning Area. This designation is intended to permit the development of up to 75 townhomes within the area so designated on Exhibit 17 as amended.

3. Master Plan (Reuse Plan) Section 3.6.2 *Goals and Policies Relevant to Specific Planning Areas* shall be amended to modify section 3.6.2.4.2. to read as follows:

3.6.2.4.2. Restrict building heights to 30-feet, with the exception of the Commissary Parcel (802 State Access, APN 157-970-03) which shall be allowed a maximum building height of 40-feet.

4. Master Plan (Reuse Plan) Table 4, *Hamilton Reuse Plan Land Use Plan Summary*, shall be amended as follows:

**Table 4  
Hamilton Reuse Plan Land Use Plan Summary  
(Navy and Runway Parcels)**

Land Use Designation	Acreage	Density/Intensity	Average Density
<b>Residential Use Areas</b>			
LDR-A	62.0	275 DU's	4.4 dus/ac.
MDR-B	102.7	683 DU's	6.7 dus/ac.
MDMFR	<del>20.9</del> <u>25.61</u>	<del>250</del> <u>325</u> DU's	<del>11.9</del> <u>12.7</u>
HDMFR	1.65	48 DU's	29 dus/ac.
Subtotal	<del>187.25</del> <u>191.96</u>	<del>1,256</del> <u>1,331</u>	<del>6.7</del> <u>6.9</u> dus/ac.
<b>Business Use Areas</b>			
NC	6.6	143,748 sq. ft. <sup>2</sup>	-
VC	2.7	41,164 sq. ft. <sup>2</sup>	-
MU	3.41	70,072 sq. ft. <sup>3</sup>	-



Subtotal	12.71	254,984 sq. ft.	
<b>Community Use Areas</b>			
CFCU	<del>41.85</del> <u>37.14</u> <sup>1</sup>	<del>729,194</del> <u>647,127</u> sq. ft. <sup>2</sup>	
P	51.9		
OS	814.6		
Ignacio Boulevard	7		
<b>TOTAL REUSE PLAN</b>		<del>1,256</del> <u>1,331</u> DU's/984,178 sq. ft.	
<b>Federal Set Asides</b>			
USCG	141.6	285 DU's	2.0

<sup>1</sup>Includes ~~34.35~~ 26.64 acres of CFCU-SP which allows special uses such as senior housing and the Hamilton Service Center (an 80-bed emergency shelter housing facility) in addition to the other general CFCU uses.

<sup>2</sup>Based on the floor-to-area ratios (FARs) identified in the text and gross acreages, these are maximum build-out projections, actual build-out is anticipated to be much less and will be limited by traffic impacts.

<sup>3</sup>Based on the floor area proposed for a senior assisted living facility in the Hospital Hill Planning Area (PA 7). Floor area was calculated on mixed residential (assisted living units) and commercial (memory care rooms) floor area ratio of 0.80 reduced by application of the building intensity reduction factors prescribed by Novato's Hillside and Ridgeline Protection Ordinance.

**LDR-A:** Low Density Residential; **MDR-B:** Medium Density Residential; **MDMFR:** Medium Density Multiple Family Residential; **HDMFR:** High Density Multiple Family Residential; **USCG:** U.S. Coast Guard; **CFCU:** Community Facilities and Civic Uses; **NC:** Neighborhood Commercial; **VC** Visitor-Serving Commercial; **P:** Parkland; **S:** Open Space; **MU:** Mixed Use

5. Master Plan (Reuse Plan) Table 6, *Land Use Statistics by Planning Area*, shall be amended as follows:

**Table 6**  
**Land Use Statistics by Planning Area**  
**(Navy and Runway Parcel)**

Planning Areas	Acreage	Residential				Federal Set-Aside	Non-Residential					MU (acres)
		LDR (ac/units)	MDR (ac/units)	MDMFR (ac/units)	HDMFR (ac/units)	VA/USCG (ac/units)	CFCU (acres)	NC (acres)	VC (acres)	P (acres)	OS (acres)	
Rafael Village (PA 1)	107.2	62/275	17.1/125	6.9/100	-	-		-		7 <sup>1</sup>	7.2	
Capehart Housing (PA 2) <sup>2</sup>	216	-	85.6/558	14/150	-	-		-		9 <sup>1</sup>	107.4	
Spanish Housing (PA 3) <sup>2</sup>	141.6	-	-	-	-	141.6/282		-		-		
Commissary Triangle (PA 4)	12.9	-	-	<u>4.71/75</u>	1.65/48	-	<del>11.25</del> <sub>3</sub> <u>6.54</u>	-		-		
Exchange Triangle (PA 5)	28.6	-	-	-	-	-	26.4 <sup>3</sup>	2.2				
Town Center (PA 6)	7.4	-	-	-	-	-	1.5	4.4		1.5		
Hospital Hill (PA 7)	3.41	-	-	-	-	-	-					3.41

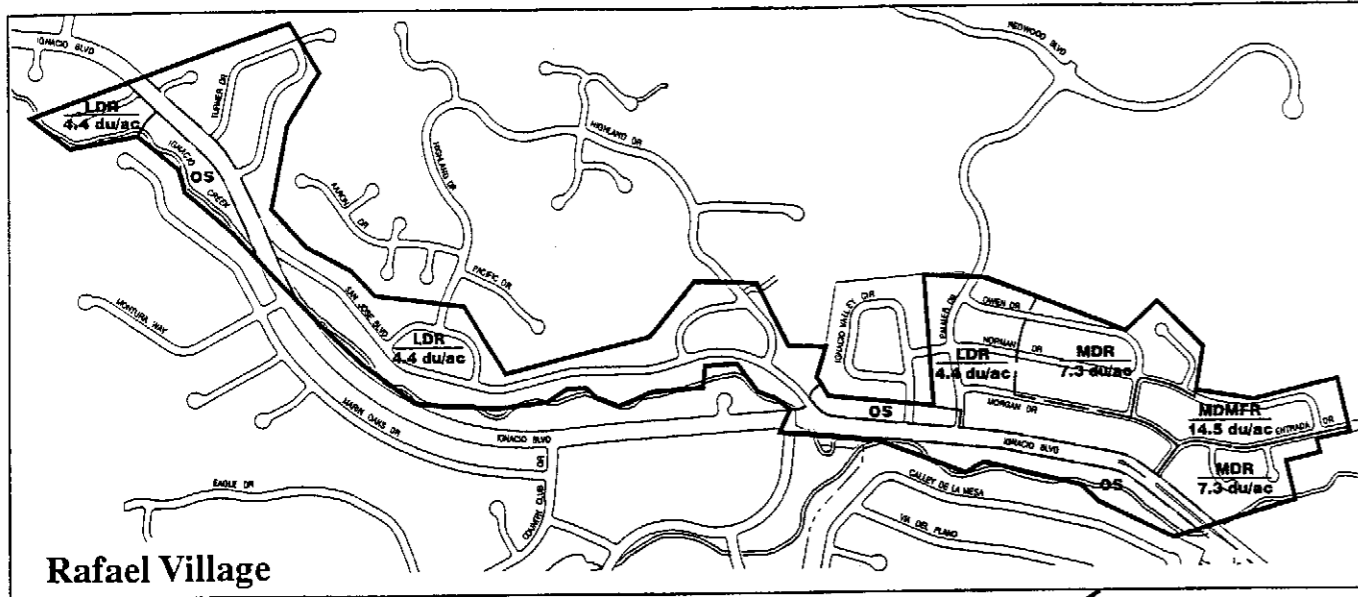
Bowling Alley (PA 8)	3.2	-	-	-	-	-	-	-	-	3.2		
Officer's Club (PA 9)	5.4	-	-	-	-	-	2.7	-	2.7			
Ballfields (PA 10)	31.2	-	-	-	-	-	-	-	-	31.2		
Runway Parcel	700	-	-	-	-	-	-	-	-	-	700	
Total	1,253.3	62.0/275	102.7/683	20.9/250	1.65/48	141.6/282	41.85	6.6	2.7	51.9	814.6	3.41

<sup>1</sup>Park not shown on map but parkland dedication /fee required. Total land use acreage does not include Ignacio Boulevard (7 acres).

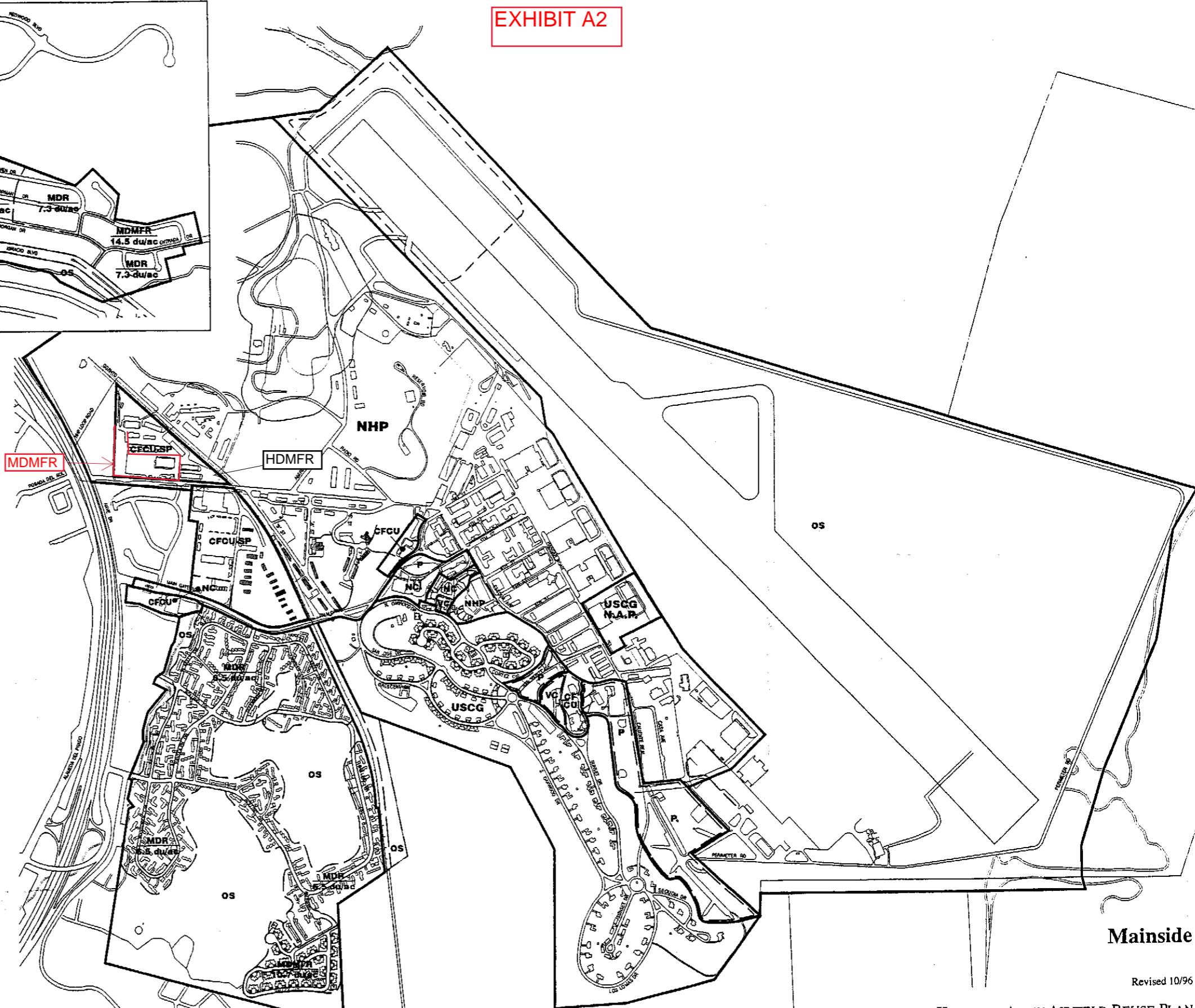
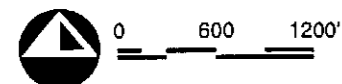
<sup>2</sup>Exiting housing stock.

<sup>3</sup> Designated CFCU-SP, which allows special uses, including senior housing and the Hamilton Services Center (an 80-bed emergency shelter housing facility) in addition to the other general CFCU uses.

**LDR-A:** Low Density Residential; **MDR-B:** Medium Density Residential; **MDMFR:** Medium Density Multiple Family Residential; **HDMFR:** High Density Multiple Family Residential; **USCG:** U.S. Coast Guard; **CFCU:** Community Facilities and Civic Uses; **NC:** Neighborhood Commercial; **VC** Visitor-Serving Commercial; **P:** Parkland; **S:** Open Space; **MU:** Mixed Use

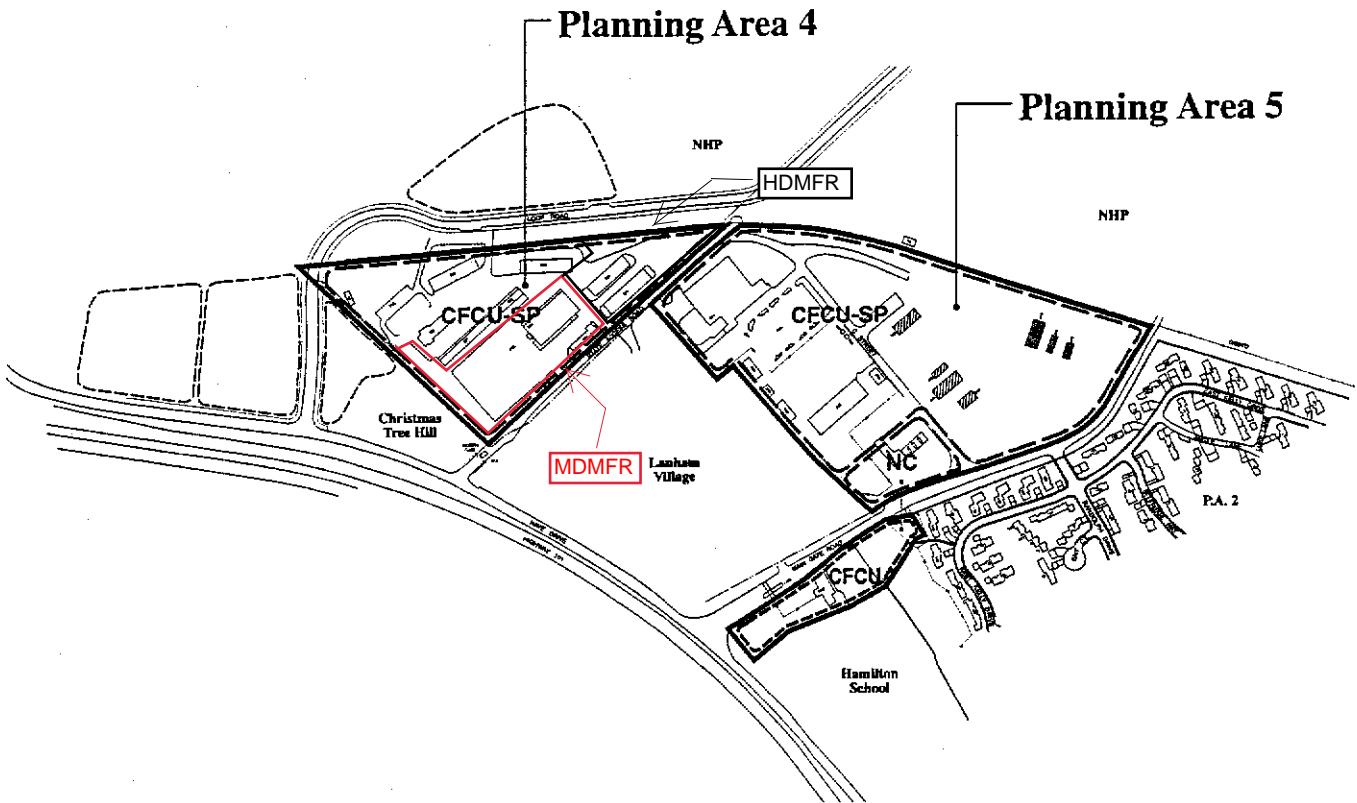


- HDMFR** High Density Multiple Family Residential (20.1-30 du/ac)
- NHP** NHP Master Plan
- LDR** Low Density Residential - A (1.1 - 5 du/ac)
- MDR** Medium Density Residential - B (5.1 - 10 du/ac)
- MDMFR** Medium Density Multiple Family Residential (10.1 - 20 du/ac)
- USCG** U.S. Coast Guard Set-aside Housing
- CFCU-SP** Community Facilities and Civic Uses Special Uses Permitted
- CFCU** Community Facilities and Civic Uses
- NC** Neighborhood Commercial
- VC** Visitor-Serving Commercial
- P** Parkland
- OS** Open Space



Mainside

Revised 10/96



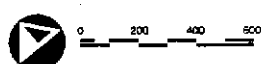
- MDMFR Medium Density Multiple Family Residential
- HDMFR High Density Multiple Family Residential
- CFCU-SP Community Facilities and Civic Uses Special Uses Permitted
- CFCU Community Facilities and Civic Uses
- NC Neighborhood Commercial (may be relocated anywhere along northern side of Main Gate Road in Planning Area)

# Land Use Plan

Revised 10/96

HAMILTON ARMY AIRFIELD REUSE PLAN

## Planning Area 4 • Commissary Triangle Planning Area 5 • Exchange Triangle



**EXHIBIT B**

**HAMILTON VILLAGE**

**NOVATO GENERAL PLAN  
CONSISTENCY FINDINGS**

**1996 NOVATO GENERAL PLAN**

***LAND USE CHAPTER***

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

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

*Facts in Support (LU Policies 1 and 2):* The Project includes a general plan amendment to change the land use designation of the site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10). The Project consists of constructing and operating residential condominiums consistent with the R10 land use designation. Upon approval of the requested project entitlements, including the noted general plan amendment, the Project will be consistent with the R10 land use designation and with all other applicable general plan policies, as described in further detail below.

The R10 land use designation permits multi-family residential uses, including condominiums and townhomes, within a density range of 10.1 to 20.0 dwelling units per acre. The Project is consistent with this land use designation since it involves the construction of residential condominiums at a density of approximately 15.9 units per acre.

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

**LU Policy 7 Growth Management.** Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

*Facts in Support:* The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water,

sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the project. All other utilities including electricity, gas, cable, internet, and telephone service are located in the State Access Road right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis. However, the Novato Sanitary District (NSD) indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, adopted as a condition of approval of the Project, requires the Applicant to pay a fee to NSD to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

Based on the analysis in the IS/MND prepared for the project, incorporated herein by reference, and the observations above, the Project is consistent LU Policy 7.

## ***TRANSPORTATION CHAPTER***

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

*Facts in Support:* The CEQA MND/IS prepared for the Project analyzed the potential for the Project to create safety hazards related to roadway operations. This analysis considered the location and design of frontage improvements, the driveway serving the Project, and the proximity of nearby driveways serving Lanham Village and Novato Village senior apartments. The analysis determined the driveways serving the Project have been designed to provide adequate site distance allowing drivers to enter and exit the Project Site with unobstructed views onto State Access Road. To ensure that adequate visibility along the driveway serving the Project is maintained, the IS/MND includes Mitigation Measures TRA-1. Mitigation Measure TRA-1 requires landscaping along the project driveway not to exceed a height of 3-feet to ensure visibility for vehicles entering and exiting the driveway.

The IS/MND also includes Mitigation Measure TRA-2 to ensure that emergency vehicles can access the Project Site through the Project drive aisles. Mitigation Measure TRA-2 requires the drive aisle curbs to be painted red to prohibit vehicle parking with the drive aisle area to ensure adequate emergency vehicle ingress and egress.

The Project includes a request for a private access easement over small segment of city-owned property identified as APN 157-970-07 located at northeast corner of the Project Site at the entrance to the reciprocal emergency vehicle access easement. The private access easement would allow widening of a drive aisle in the Project to accommodate project related traffic, as well as

accommodating the turning movements of emergency vehicles serving the Project and entering and exiting the EVA. This easement will ensure adequate on-site circulation, as well as sufficient emergency access.

Based on the findings of the traffic analysis presented in the IS/MND, the Project is consistent with TR Policy 11.

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

*Facts in Support:* The Applicant is responsible for construction of full street improvements along the Project Site's frontage with State Access Road as indicated on the Project plans. These improvements would consist of curb, gutter, sidewalk, and any work necessary to correct or improve the existing paved sections of State Access Road within the limits of the Project Site's frontage. The Project's plans delineate the location and general design of the frontage improvements required for the Project, including a new sidewalk segment between Novato Village senior apartments to the south and Nave Drive to the west. The proposed sidewalk improvement will offer safer and more convenient pedestrian access to existing residents in the area and new residents of the Project. Accordingly, the Project is consistent with TR Policy 22.

## ***HOUSING CHAPTER***

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

*Facts in Support:* The Project Site is an undeveloped and partially paved lot. Novato Village senior apartments are located to the east, Christmas Tree Hill (undeveloped rock outcropping) is immediately west of the Site, Lanham Village (residential condominiums) is to the south, and former military warehouses and Homeward Bound of Marin's homeless services facilities are located to the north.

The Project's buildings and landscaping have been designed in a manner consistent with of the neighboring Novato Village senior apartments and that of the greater Hamilton area, including the use of Spanish themed architecture and the creation of internal courtyards, pedestrian paths, and a central outdoor space. The Project's building height (40-feet) would be taller than nearby development, however architectural elements including varying wall planes and recesses break up the façade of the buildings and create visual interest to reduce apparent height, bulk and mass of the Project. These design elements avoid buildings with a tall, flat appearance. Given the 80-foot right-of-way of State Access Road, and existing mature trees located along the south side of the road, Hamilton Village should not feel imposing to residents in the one- and two-story residences across the street in Lanham Village. Further, the Project is separated from Novato Village (30-foot building height) by approximately 20-feet, which is an acceptable distance to allow the Project's multi-story development.

The Applicant has designed the Project, including landscaping and tree planting at the perimeter of the site, in a manner intended to soften the appearance of the structures from surrounding areas

by breaking up wall planes with interesting architecture and strategically diffusing views of buildings with new tree plantings. In addition, the Project creates a desirable presence of building facades and landscaping at the edge of State Access Road that would improve the appearance and experience of travelling along this roadway. Based on the design features described above, the project is consistent with HO Policy 3.2.

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

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story stepbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.
- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

*Facts in Support:* The Project includes various design elements consistent with the design principals of Housing Policy 3.3, including:

- Building materials consisting of concrete tile roofing, decorative foam accent gables, stucco exterior, pot shelf and window accents, shutters, and roll-up garage doors, providing visual interest and building articulation.
- Articulated elevations featuring wall projections and recesses, as well as varying roof styles and patterns, and separations between buildings which reduce the apparent height, bulk and mass of the buildings.
- The reduced front setback along State Access Road which activates the streetscape and creates a sense of community by conveying more of a neighborhood street feeling. Breaks are included between the buildings located along the State Access Road frontage, thereby reducing perception of mass from the street.



- A central entryway is oriented toward State Access Road, which leads directly into a large central open space area, creating a focal point, and reducing the apparent height, bulk and mass of buildings.
- Building facades are not dominated by garages, and balconies and/or trellis structures are incorporated above the garages on the majority of buildings to offset the prominence of the garage door. Placement of the on-site uncovered parking stalls are located towards the rear of the site and are screened from view.

**HO Policy 4.2 Renewable Energy Technologies.** Promote the use of sustainable and/or renewable materials and energy technologies (such as solar and wind) in new and rehabilitated housing when possible.

*Facts in Support:* The Project includes a 2-kilowatt photovoltaic system for each residential unit and is therefore consistent with HO Policy 4.2.

**HO Policy 6.1 Transit-Oriented Development.** Encourage Multi-family Development within an easy walking distance to transit access points – a station or location served by one or more transit lines – where reduced automobile usage and parking requirements are possible. Maximize the use of these limited land resource sites to reduce overall energy, land, water and other costs.

*Facts in Support:* The Project would develop 75 multi-family residential units, including 15 affordable units, within one-half mile of the Hamilton SMART rail station and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 6.1

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

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

*Facts in Support:* The Project would provide 75-units of ownership, multi-family housing featuring small and large units located within one-half mile of the Hamilton SMART rail station

and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 7.2

**HO Policy 9.1 Flexibility and Incentives in Development Standards.** The City will seek ways to promote housing, such as increased FAR, height limits and density, and reduced parking, based on the location and design of the development, compatibility with adjacent uses, and the type, size, and income levels of the occupants of the housing. The purpose of this policy is to recognize that smaller, more affordable housing located near transit, jobs and services will generate fewer trips, require less parking, and have fewer area-wide impacts.

*Facts in Support:* The Project includes requests to allow increased building height, reduced parking, and flexibility on setbacks to accommodate 75 multi-family units, including 15 affordable units. These requests are based on the need maintain the proposed unit count to support the provision of the noted affordable units, providing generous common outdoor facilities for residents, and constructing an approximately 1-acre private park available for public use. Therefore the Project is consistent with HO Policy 9.1.

**HO Policy 10.1 Inclusionary Housing Approach.** To increase workforce affordable housing construction, the City will continue to require residential developments to provide a percentage of units or an “in-lieu” or other fee for very low, low and moderate income housing. The units provided through this policy are intended for permanent occupancy and must be deed or rent restricted, including but not limited to single family housing, multi-family housing, condominiums, townhouses, and apartments.

*Facts in Support:* The Project, consistent with HO Policy 10.1 and Novato Municipal Code Division 19.24, *Affordable Housing Requirements*, provides 15 affordable condominium units for buyers of low (8 units) and moderate (7 units) income. These units will be subject to an affordable housing agreement and associated deed restriction to ensure long-term affordability.

## ***ENVIRONMENT CHAPTER***

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

*Facts in Support:* The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section 10, Hydrology and Water Quality of the IS/MND, the Project would be required to comply with the City of Novato’s stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), as well as the requirements of NMC Chapter 7-4, *Urban Runoff Pollution Prevention* and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

The Novato Public Works Department is requiring the Project comply with numerous water quality related conditions of approval. These conditions require the developer to create a Stormwater Control Plan based on the Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. A SWPPP is required to reduce potential adverse impacts to surface

water quality through the Project's construction period. The SWPPP shall include the minimum Best Management Practices (BMPs). These include BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

Based on the facts above, the Project is consistent with EN Policy 7.

**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 of 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:* The CEQA IS/MND prepared for the project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in Section 4, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1, the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffer areas and presence of a biological monitor on the construction site to ensure construction activities take place outside of the buffer area.

Based on the findings of the CEQA IS/MND and the noted mitigated measure, the Project is consistent with the and advance EN Policies 18 and 19.

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

*Facts in Support:* A total of 25 trees are currently present at the Project Site and have trunk diameters ranging in size from 6- to 54-inches. All of the trees on the Project Site will be removed, some due to poor health as evaluated by a certified arborist, and the remainder due to construction impacts. The trees to be removed include four (4) heritage trees, which are described in Table 2 below:

**Table 1**

<b>Type</b>	<b>Diameter</b>	<b>Health*</b>
Coast Live Oak	31-inches	Good
Aleppo Pine	35-inches	Marginal
Aleppo Pine	54-inches	Marginal
Aleppo Pine	45-inches	Marginal

\**Good*: health is average, with no significant signs of pest or disease.

*Marginal*: health is compromised and distress is visible, such that the tree may not survive.

Tree removal to accommodate new development is not prohibited by the General Plan or Zoning Ordinance, and is considered on a case-by-case basis when a proposed project is subject to discretionary review. Notably, the Project includes planting of over 120 trees along the perimeter and throughout the interior of the Project Site. Based on the tree replacement ratio, the Project is consistent with EN Policy 26.

**EN Policy 29 Energy Conservation Measures in Buildings.** Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

*Facts in Support:* The Project will be designed to meet the requirements of the California Building Code and Title 24 of the California Code of Regulations. The Project’s construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of the building permit. Additionally, the Project includes solar panels for each unit, and well as all electric appliances. Each garage is wired to allow Electric Vehicle (EV) charging, and there will be an option for future owners to purchase a solar battery to better utilize the solar system.

Based on the noted facts above, the Project is consistent with and advances EN Policy 29.

**EN Policy 35 Watershed Management.** Minimize the effects of pollution in stormwater runoff. Retain and store where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

**EN Policy 37 Using CEQA to Reduce Water Quality Impacts.** Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

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

State law.

*Facts in Support:* The Project includes individual solid waste and recycling storage for each of the proposed units, consistent with EN Policy 39.

**EN Policy 44 Park and Recreation Facilities.** Develop and maintain to the maximum extent possible given available resources a system of parks to meet the needs of Novato residents.

*Facts in Support:* The Project includes a 1.1-acre private park to be developed with outdoor amenities, including bocce ball courts, a children's play area, community garden beds and meditation garden. The park will serve future Project residents and the general public, as offered by the Applicant. A condition of approval requiring dedication of a public access and use easement has been applied to the Project to ensure the park is available for public use in perpetuity. The Project is considered to be consistent with EN Policy 44.

## ***SAFETY AND NOISE CHAPTER***

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

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

*Facts in Support:* Seismic hazards and soil stability are addressed in Section 7, Geology and Soils, of the CEQA IS/MND prepared for the Project. The analysis contained in the IS/MND determined the Project would likely be subject to liquefaction during a seismic event due to the presence of liquefiable soils on the Project Site as identified during the geotechnical investigation. There is also the potential for rock fall and lateral spreading, phenomena that are often associated with liquefaction. Mitigation Measure GEO-1 is recommended to reduce risks to people and improvements at the site. Mitigation Measure GEO-1 requires all recommendations found in the Geotechnical Investigation prepared for the Project to be included as conditions of approval and implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: grading, surface and subsurface drainage, bio-filtration facilities, foundations, miscellaneous concrete flatwork, retaining walls and foundations, pavement areas, utility trenches, and project review and construction monitoring. Furthermore, application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., California Building Code, City ordinance and conditions of approval) would further reduce seismic hazards.

Based on the facts above, the Project is consistent with and advance SF Policies 1 and 3.

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

*Facts in Support:* As described in Section 10, Hydrology and Water Quality of the CEQA

IS/MND, the Project's drainage system has been designed to meet the City's criteria for drainage and flood control. Specifically, the drainage system proposed would be sufficient to contain a 25-year peak storm event, and the capacity of the existing storm drain system can support the additional runoff from the Project during a 25-year storm event. Additionally, a grass swale in the center of the Project would provide stormwater management and proposed grading would drain stormwater to the proposed storm drainage system prior to connecting to existing stormwater drain systems along the east side of the property. Additionally, the Project would be required to comply with NMC 7.4, Urban Runoff Pollution Prevention, requiring the project to be designed to control runoff volume to the maximum extent feasible through such features as the on-site bioretention (grassy swale) features identified in the Project plans and subject to conditions requiring a stormwater control plan and stormwater management agreement with maintenance by the HOA.

The IS/MND identified that the project would not increase the rate or amount of surface runoff in a manner resulting in flooding or exceeding the capacity of the storm drainage system. Based on these observations, the Project is consistent with SF Policy 9.

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

**SF Policy 17 Level of Fire Protection.** Work with Novato Fire Protection District to help ensure a continued high level of fire protection.

*Facts in Support:* The Project was referred to the Novato Fire Protection District for review and comment on fire and emergency safety issues. The Novato Fire Protection District submitted comments and recommended conditions of approval for the Project and will review the construction level design plans prepared for the Project to ensure the development includes all necessary fire suppression and vehicle access features.

As described in Section 20, Wildfire, of the CEQA IS/MND, the Project Site is not located in an area with high fire risk, and no mitigation is required to reduce the risk of fire.

The Project includes granting and receiving a reciprocal emergency access (EVA) easement to provide optimal emergency access for the Project and the adjoining City properties (APNs 157-970-05, -06, and -07) leased by Homeward Bound of Marin. This easement will ensure the Novato Fire Protection District has adequate access to serve the Project and the Homeward Bound or Marin's existing and proposed homeless services facilities.

Based on these observations, the Project is consistent with SF Policies 16 and 17.

**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**

<b>Residential Development</b>	<b>Up to 60 dB</b>
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 13, Noise, of the CEQA IS/MND, the existing ambient noise level at the Project Site is 58 dBA Leq. This noise level is within the noise range specified in SF Table 3 and residential use of the property is compatible with the existing noise environment of the Project Site consistent with SF Policy 37.

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

*Facts in Support:* As described in Section 13, Noise, of the CEQA IS/MND, construction of the Project could temporarily expose nearby sensitive receptors at Lanham Village and Novato Village to increased noise levels exceeding the exterior noise level threshold for residential land uses as shown in SF Table 3, above. However, NMC 19.22.070, Noise and Construction Hours, permits authorized construction activities to exceed these noise thresholds when construction occurs between 7:00 am and 6:00 pm on weekdays, and 10:00 am and 5pm on Saturdays. Construction is not permitted on Sundays, nor on federal holidays. A condition of approval will be included requiring construction of the Project to adhere to the provisions of NMC 19.22.070, ensuring construction noise will be less than significant to nearby sensitive receptors.

Sources of noise associated with operation of the Project include rooftop heating, ventilation, and air conditioning (HVAC) equipment, parking lot vehicle activity, and solid waste and recycling collection. This noise would be similar to existing noise produced by surrounding residential uses. As analyzed in the IS/MND, noise produced by vehicles in the parking area and traffic would be less than significant to nearby residential uses due to distance. On-site mechanical noise would be mitigated by the Project design, which includes 30-inch tall parapet walls on all rooftops, reducing noise produced by HVAC equipment by 10 dBA. The IS/MND analysis determined the HVAC equipment noise would be less than 60 dBA, consistent with the noise threshold identified in SF Table 3.

Based on these observations, the Project is consistent with SF Policy 38.

## ***PUBLIC FACILITIES AND SERVICES CHAPTER***

**PF Policy 5 Potable Water.** Ensure adequate water supply for new and existing development.

**PF Policy 6 Water Conservation.** Develop and implement water conservation programs in Novato.

*Facts in Support:* The Project was referred to the North Marin Water District (NMWD), which would provide potable and recycled water service to the Project for review and comment. The existing recycled water distribution main located at State Access Road must be extended to the Project to serve new landscaping. The Project may connect to the District's potable and recycled water systems by executing an agreement for service, paying connection fees, and installing lateral service lines. NMWD also requested that above-ground reduced pressure principal backflow prevention devices at the water meters be installed. The Project must also comply with the District's water conservation ordinance, Regulation No. 15, which addresses plumbing fixtures, landscaping species selection, and irrigation features intended to reduce potable water consumption.

NMWD's requested improvements are included in the Precise Development Plan as conditions of approval applicable to the Project. Compliance with these conditions of approval will be reviewed through the local building permit review process.

Based on the observations above, the Project is considered to be consistent with PF Policies 5 and 6.

## ***COMMUNITY IDENTITY CHAPTER***

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

*Facts in Support:* Please see the discussion for Housing Policies 3.2 and 3.3, above.

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

*Facts in Support:* The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. The project is required to connect into the Water District's recycled water line for landscape irrigation.

Based on the observations above, the Project is consistent with CI Policy 7.



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

*Facts in Support:* All existing overhead utilities at the Project Site will be placed underground consistent with the requirements of Chapter V of the Novato Municipal Code. Therefore, the Project is consistent with CI Policy 9.

**CI Policy 12 Parking Standards.** Reduce the visibility of parking facilities and the amount of land necessary for them to maximum extent feasible.

*Facts in Support:* The Project has been designed to include a two-garage for each residential unit. Additionally, the majority of the on-site uncovered parking stalls are located at the rear of the site. A five-foot wide landscape planter and fencing would be located between the parking and the rear property line to screen parked vehicles from the property to the north. The parking would not be visible from State Access Road due to distance and buildings/landscaping screening. Parking is proposed along State Access Road that is open to both residents and guest of the Project, as well as to the general public to utilize the public park portion of the Project. On-street parking will utilize the existing right of way width of State Access Road, and street tree planting is proposed adjacent to these parking stalls. Therefore, the Project is consistent with CI Policy 12.

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

*Facts in Support:* The Project provides a variety of outdoor use and landscape spaces for residents, including a private balcony for each unit, a private patio for the majority of units, and approximately 28,000 square feet of common open space. Common open space amenities include a meditation garden, botanical garden, outdoor cooking and seating areas, picnic tables, fire tables, and landscaping. Additionally, the Project includes a 1.1-acre park on the Project Site that will be available to residents of Hamilton Village, and will be open to the general public. Park amenities include a community garden, bocce ball courts, children's play area, landscaping, and safety fencing. The total amount of open space per unit exceeds the 300-square feet of open space per unit required by the Novato Municipal Code for multi-family projects.

Based on these observations, the Project provides adequate landscaped, open space areas consistent with CI Policy 14.

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

*Facts in Support:* Please refer to the response to TR Policy 22, above.

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

*Facts in Support:* Rincon Consultants completed a search of the California Historical Resources Information System (CHRIS) at the Northwestern Information Center (NWIC) located at Sonoma State University on January 3, 2020. The NWIC identified 54 previously cultural resources studies previously performed within 0.5-mile of the Project site, as well as five (5) cultural resources

recorded within 0.5-mile of the Project site. Additionally, the Project Site previously contained the commissary building for Hamilton Army Airfield. The Hamilton Army Airfield Discontinuous Historic District, located .05-mile east of the project site is recorded as an National Register of Historic Place (NRHP) -listed historic district, however the district boundary does not include the Project Site. Furthermore, the commissary building was demolished in 2010.

The Native American Heritage Commission (NAHC) informed Rincon that the Sacred Lands File check was completed with positive results for a site within the project vicinity, but not the Project Site itself. The NAHC provided Rincon with a list of Native American tribes culturally affiliated with the nearby sacred lands site. However, the Federated Indians of Graton Rancheria (FIGR) did not indicate the presence of any Native American Resources within the Project Site. Additionally, an archeological field survey was conducted by a qualified Rincon archaeologist on January 17, 2020. No archeological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) and Assembly Bill 52 applies to the Project. 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 November 14, 2019, and by the Guidiville Band of Pomo Indians on November 15, 2019. The City of Novato did not receive a request for consultation from either group.

The potential exists for encountering previously undiscovered archeological resources during construction and earth-moving activities associated with the Project. To ensure that impacts to cultural resources remain less-than-significant, the IS/MND prepared for the Project provides Mitigation Measures CUL-1 and TCR-1 requiring the following:

**Mitigation Measure CUL-1:** If cultural resources are encountered during ground-disturbing activities associated with construction of the Project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans. Implementation of Mitigation Measures CUL-1 would reduce potential impacts to unanticipated archeological resources to less than significant.

**Mitigation Measure TCR-1:** If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American

groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative. 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 consistent with CI Policy 30.

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

*Facts in Support:* The Applicant has indicated that public art in compliance with the City's Art Program, Division 19.21 of the Zoning Ordinance, will be provided as part of the Project. Staff is recommending a condition of approval that the Applicant fulfill the requirements of the Art Program prior to issuance of a building permit for the Project. Based on the observations above, the Project is consistent with CI Policy 32.

## Exhibit C

### HAMILTON VILLAGE CONDITIONS OF APPROVAL

Hamilton Village is subject to complying with the following conditions of approval, which shall be implemented by the Applicant. Use of the term “Applicant” in this instance is inclusive of any and all successors in interest to the Project.

#### Initial Study/Mitigated Negative Declaration, Mitigation Measures:

1. Mitigation Measure BIO-1: To avoid impacts to nesting birds and other special-status bird species, ground disturbing activities during construction of the project shall be limited to the period between September 1 and January 31 (i.e., outside the nesting season), if feasible. If initial site disturbance, grading, and vegetation removal cannot be conducted during this period, a qualified biologist shall conduct a pre-construction survey for active nests in and around the project site, no more than two weeks prior to any construction activities. The survey shall include the project site and other such habitat within 500 feet of the project site.

If active nests are identified, the extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided.

If active nests are identified, species-specific exclusion buffers shall be determined by the biologist (i.e., 500 feet for raptor nests), and construction timing and location adjusted accordingly. The buffer shall be adhered to until the adults and young no longer rely on the nest site, as determined by the biologist. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. An on-site biological monitor shall be present during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (i.e., outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities.

2. Mitigation Measure CUL-1: If cultural resources are encountered during ground-disturbing activities associated with construction of the project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans.

3. Mitigation Measure GEO-1: The Geotechnical Investigation produced by Quantum Geotechnical, Inc. provides recommendations that would ensure the project is suitable from a geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of approval and shall be implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: Grading, Surface and Subsurface Drainage, Bio-filtration Facilities, Foundations, Miscellaneous Concrete Flatwork, Retaining Walls and Foundations, Pavement Areas, Utility Trenches, and project review and construction monitoring.
4. Mitigation Measure HAZ-1: Prior to the beginning of construction, a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.
5. Mitigation Measure HAZ-2: Prior to issuance of a building, grading, or demolition permit, the Applicant shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.

The plan shall:

- Provide that the construction contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, during grading, excavation, demolition and construction activities. If during such activities the contractor discovers an unknown waste or debris that is believed to involve hazardous waste and/or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant and remove workers and any members of the public at the Project site from the immediate area of the discovery;
- Describe the monitoring protocols to be implemented during grading and excavation activities to observe any potential indicators of soil contamination, such as soil staining and odors;
- Identify appropriate measures to be followed if contaminants or unknown underground environmental features (e.g., storage tank) or debris are encountered during grading, excavation, and site demolition work to protect workers and the public;
- Prescribe sampling protocols to properly characterize suspected contaminants;

- Specify contaminant thresholds at which regulatory agency (e.g., Marin County Certified Uniform Program Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control) notification is required;
- Incorporate all mitigation measures/conditions of approval addressing dust control;
- Identify personnel to be notified and provide emergency contact information; and
- Prescribe handling protocols for suspected contaminants and appropriate disposal procedures.

The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval prior to the issuance of any building, grading, or demolition permit. The plan shall be peer reviewed by a third-party contractor hired by the City at the Applicant's expense to confirm the plan is acceptable.

6. Mitigation Measure HAZ-3: During construction, the Applicant shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the project. Basic measures shall include, at a minimum:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the name and telephone number of the contractor's representative to contact regarding dust complaints. This person shall respond and take corrective action within two hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Additional measures shall include, at a minimum:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
  - The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
7. Mitigation Measure HAZ-4: The Applicant shall design and implement engineering measures or institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City's Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the Applicant's expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.

The Applicant and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department.

The efficacy of the measures and controls shall be confirmed and certified by a qualified professional pursuant to the construction quality assurance/quality control testing guidance of the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011).

8. Mitigation Measure TRA-1: The Applicant shall ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the Applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements. Such requirements shall be incorporated into the Covenants, Conditions and Restrictions (CC&Rs) for the Project.
9. Mitigation Measure TRA-2: The Applicant shall ensure that on-street parking within the project site driveway shall be prohibited and marked by red curbs. Prior to project construction, the Applicant shall submit to the City Planning Division plans showing this design. Ongoing maintenance of said parking restriction and red curbing shall be included in the CC&Rs for the Project.

10. Mitigation Measure TRC-1: If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared in accordance with state guidelines and in consultation with Native American groups. The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
11. Mitigation Measure USS-1: Prior to construction activities commencing, the Applicant shall pay a fair share fee to the NSD for the necessary capacity improvement of upsizing 1,180 feet of pipe from 15-inches in diameter to 18-inches in diameter pursuant to the District's adopted Collection System Master Plan.

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

12. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permit(s), certificate(s) of occupancy or other entitlements.
13. The Applicant shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code Section 9-20.
14. Prior to or concurrent with the recordation of the Final Map, the Applicant shall execute and record an affordable housing agreement and deed restriction in the City's standard form and subject to the approval of the City Attorney. Said agreement will provide for the reservation of a total of 15 residential condominium units, for-sale to qualifying buyers in the low (8 units reserved) and moderate (7 units reserved) income categories consistent with Novato Zoning Ordinance Section 19.24. The affordable housing agreement shall include the City's standard covenant and other affordability agreements for buyers of the affordable units to restrict the unit resales. The affordable housing agreement shall include a requirement for the Project to submit a management plan and Management Agreement subject to the review and approval of the Community Development Director and the City Attorney.
15. The Applicant shall grant a public access easement to the 1.10-acre private park included in the Project to permit public use as offered by the Applicant. The easement shall allow public use in perpetuity. Said easement shall be executed and recorded prior to or concurrent with the recordation of the Final Map for the Project. Said easement shall be subject to review and approval by City Attorney, Community Development Director, and Public Works Director.



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

16. The applicant shall obtain a building permit issued by the City of Novato Building Division prior to commencement of any construction of any structures.
17. The project shall comply with all the requirements of NMC 19.22.070 – *Noise and Construction Hours*.

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

### **General Conditions of Approval**

18. The Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the Uniform Construction Standards All Cities and County of Marin, unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
19. The Applicant shall be responsible for all City plan check, map check and inspection costs. The Applicant shall enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.
20. The Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall show all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, communication lines, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. No Encroachment Permit shall be issued prior to the approval of the Improvement Plans and approval and recordation of the Improvement Agreement as set forth herein.
21. All existing and proposed electrical and communications lines, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be subject to the approval of the appropriate utility company.

22. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. This condition shall be satisfied prior to approval of the Improvement Plans. No new wells or septic systems are permitted on the subject property.
23. A detailed design level Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The Improvement Plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

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

24. A drainage study prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations, narrative and exhibits to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. This study shall include a hydraulic grade line analysis of the existing downstream storm drain. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall also include an analysis of the 100-year storm overland flow.
25. The Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles, treatment vaults, and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans. Mechanical treatment measures shall be consistent with those shown on the vesting tentative map plans.
26. Prior to the approval of the Improvement Plans and prior to the issuance of a grading, building or demolition permit, the Applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Novato Fire Protection District, Department of Fish and Game and U.S. Army Corp of Engineers. Proof of approval and/or clearances, including but not limited to, North Marin Water District, and the Novato Sanitary District shall be submitted

to the City prior to approval of the Improvement Plans. A complete set of Improvement Plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.

27. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.
28. Prior to City approval of the Improvement Plans, the Applicant shall obtain signatures from representatives of the Novato Fire Protection District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
29. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
30. All outside garbage facilities shall be designed to be fully covered with a roof meeting Marin County's storm water pollution prevention best management practices.
31. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the improvement plans.
32. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
33. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

**Special Conditions of Approval:**

34. The Applicant shall submit Improvement Plans for the entire development, including both onsite and offsite improvements, prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Vesting Tentative Map of Hamilton Village (9 sheets) prepared by CSW/Stuber-Stroeh Engineering Group last revised March 31, 2020 (referred to herein as Tentative Map). The onsite and offsite improvement plans may be submitted as separate packages.
35. All on-site (defined as within the subdivision boundaries) streets, parking lots, sidewalks, streetlights, private sanitary sewer facilities, storm drain facility, stormwater quality facilities and landscaping shall be privately owned and maintained, except for the public storm drain within Public Drainage Easement along the east side of the site.

36. The Applicant shall construct all of the Public Improvements generally as shown on the Tentative Map and more specifically described below.
- a. Widen State Access Road along the site frontage to provide on-street parking as shown on Sheet C3.0 of the Tentative Map. The maximum cross-slope of the new parking lane shall be 4%. If necessary, reconstruct part of the existing roadway to meet this requirement. Construct curb, gutter and sidewalk along the site frontage and extending west along State Access connecting to the existing sidewalk at Nave Drive. Install streetlights along the site frontage and extending west to Nave Drive.
  - b. Restripe State Access Road from the east line of the site to Nave Drive to provide the vehicle lanes and Class 2 bicycle lanes as shown on Sheet C3.0 of the Tentative Map. The final widths of these lanes shall be as approved by the City Engineer. Re-stripe the turn pockets approaching Nave Drive. Provide bicycle lane markings and signage.
  - c. Extend the storm drain in State Access Road west and provide a catch basin at the upstream side of the entrance curb return.
37. The Applicant shall construct all of the private improvements generally as shown on the Tentative Map and more specifically described below.
- i. Install onsite storm drain facilities in accordance with the final approved drainage report.
  - ii. Construct the permanent on-site and offsite private post-construction stormwater treatment facilities in accordance with the approved final SWCP. As shown on the Vesting Tentative Map, onsite mechanical treatment shall be permitted to satisfy BASMAA requirements.
  - iii. Construct all onsite curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities in accordance with the approved Improvement Plans.

**Final Map Conditions of Approval:**

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

information shown on the closure calculation printout. A current title report (within past 30 days) shall be submitted at the time of initial Final Map submittal.

39. The Applicant shall transmit by certified mail a copy of the conditionally approved Tentative Map together with a copy of Section 66436 of the State Subdivision Map Act to each public entity or public utility that is an easement holder of record.
40. The Final Map will not be approved prior to approval of the Improvement Plans, Subdivision Improvement Agreement, Affordable Housing Agreement, Stormwater Control Agreement.
41. On the Final Map, the Applicant shall indicate that all common parcels are or will be dedicated to the Homeowner's Association
42. On the Final Map, the Applicant shall dedicate the public utility easements and emergency vehicle access easements over the private roadway areas as shown on the Tentative Map. The waterline easements and sanitary sewer easements shall be created by separate instrument.
43. Submit legal descriptions and plats for the requested access easement and emergency vehicle access easement over the HUD Parcel (APN 159-970-07).
44. Prior to approval of the Final Map, the Applicant shall enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all onsite and offsite improvements, including but not limited to, grading and construction of any curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities, to the reasonable satisfaction of the City Engineer. The Improvement Agreement shall be secured to guarantee the faithful performance of the agreement in the amount of 100% of the estimated cost of the improvements and for the payment of labor and materials in the amount of 100% of the estimated cost of the improvements in accordance with the Subdivision Map Act. A final certificate of occupancy shall not be issued for any structure until required improvements are completed to the satisfaction of the City Engineer.
45. Prior to the approval of the Final Map, the Applicant shall submit Covenants, Conditions and Restrictions (CC&Rs) for review and approval of the City Engineer, City Attorney and Community Development Director. The approved CC&Rs shall rerecorded concurrent with the recordation of the Final Map. As part of the CC&Rs, the Applicant shall establish a Homeowner's Association (HOA) in accordance with State law, which HOA shall be responsible for the long-term and ongoing maintenance of all common onsite and offsite improvements. Specifically, the HOA will be responsible for the long-term and ongoing maintenance of the park, all streets, parking lots, sidewalks, streetlights, sanitary sewer facilities, storm drain facilities, except for the public storm drain within Public Drainage Easement along the east side of the site, stormwater quality facilities, common garbage facilities if any, landscaping and all other improvements within the HOA owned common parcels, easements, and the offsite curb, gutter, sidewalk, and post-construction stormwater

treatment facilities and landscaping within the public right-of-way along the State Access Road frontage in accordance with the required License Agreement and Stormwater Operations and Maintenance Agreement. The CC&R's shall also include a provision restricting the use of garages for the parking of the number of vehicles for which the garage was designed.

46.

The CC&Rs shall include a provision granting to the City enforcement authority, but not an obligation over the HOA's maintenance obligations and the obligation to review and approve proposed changes or amendments to the CC&R's. The CC&Rs shall also require professional management of the HOA for the first two (2) years after issuance of the final certificate of occupancy for a unit in the Project, and shall require the HOA to create and maintain a separate maintenance reserve fund as required by the California Department of Real Estate..

47. Prior to recordation of the Final Map, the Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs. Once approved and prior to recordation of the Final Map, the Applicant shall enter into a Stormwater Operations and Maintenance Agreement (SOMA) with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices. Such SOMA shall be recorded concurrent with the Final Map and shall be referenced in the CC&Rs with ongoing requirements to be assumed by the HOA.

48. Prior to recordation of the Final Map, the Applicant shall enter into a license agreement with the City to authorize maintenance of the post-construction stormwater treatment facilities and landscaping within the State Access Road right-of-way.

#### **Construction Conditions of Approval:**

49. The Applicant shall install all construction stormwater pollution prevention measures as indicated in the SWPPP consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be engaged by the Applicant at the Applicant's expense. Such SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The CC&Rs and SWCA shall require that the HOA continue to engage such qualified SWPPP Practitioner on an ongoing basis. The Applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.

50. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through

Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall advise all contractors of the construction and inspection hours. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.

51. A City of Novato Encroachment Permit shall be obtained by the Applicant or contractor prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
52. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" in diameter and larger shall be professionally televised by the Applicant and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired by the Applicant to the satisfaction of the City Engineer.
53. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
54. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways via wet-sweeping or an equivalent process that does not produce dust. Dry-sweeping shall be prohibited."
55. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed, and service connections stubbed out behind the sidewalk by the Applicant. Public utilities, Cable TV, sanitary sewers and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
56. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted by the Applicant for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
57. Utilities to be abandoned shall be removed or completely filled with suitable material and

capped to the approval of the applicable utility agency and to the approval of the City Engineer.

58. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
59. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

**Occupancy Conditions of Approval:**

60. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
61. Prior to occupancy of any building, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.
62. Prior to occupancy of any building, the Applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

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

63. An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation.
64. Fire hydrants capable of supplying 1,500 gallons per minute minimum will be required to be installed so that spacing between hydrants does not exceed 300 feet as shown on the approved plans. The fire hydrants shall be spotted by the Fire Marshal and contain at least one 4½- and one 2½ -inch outlets. Installation shall conform to the specifications of the North Marin Water District.
65. Fire hydrants shall be installed in accordance with the applicable standard, tested, and operational prior to framing.
66. Fire hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a blue reflective roadway marker installed per NFD Standards.



67. Proposed roads and driveways shall not exceed 18% grade.
68. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
69. Roadways shall be not less than 20-feet wide capable of accommodating a 60,000 gross vehicle weight (GVW) and driveways not less than 16-feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.
70. Consistent with the vesting tentative map, a second means of emergency ingress and egress for fire apparatus shall be installed capable of accommodating Novato Fire District apparatus and conform to NFD standard #210.
71. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
72. An approved fire gate shall be located by the Fire Marshal and installed conforming to NFD Standard #221.
73. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
74. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
75. A building and 'Floor Plan Directory' shall be installed in all locations required by the Fire Marshal, and conforming to Novato Fire Protection Standard #205A.
76. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.

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

77. The subject property is within a Special Assessment District established to recover the capacity improvement cost of the sanitary sewer. Payment of the assessment fee and connection charges will be required prior to the project making connection to the public sewer.
78. The Applicant shall pay the District's current connection fees at time of connection.

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

79. The existing water recycled water distribution main located at State Access Road must be extended to the project. The onsite facilities shall be designed to use recycled water for irrigation and shall be designed to prevent discharge onto areas not under control of the Applicant.
80. The Applicant shall apply to the District, enter into an agreement with the District, and complete financial arrangements for the new facilities. Occupancy approval for each building shall not be granted until water service installation and sign off is complete for that building.
81. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter may be required in accordance with the District's Regulation 6 and California Department of Health Regulations (Title 17). If required, upon installation, an inspection report (device testing) must be completed and returned to the District prior to the commencement of business activities.
82. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
83. City of Novato Indemnity and Time Limitations

As to the Tentative Map Entitlement

- a. In accordance with Government Code Section 66474.9, 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 approval at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the City, and/or parties initiating or bringing such action.
- b. In the event that a claim, action, or proceeding described 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 if both of the following occur: The City bears its own attorney's fees and costs; and, the City defends the action in good faith. 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 subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider. 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.

- c. 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.
- 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.

#### As to All of the Other Entitlements

- 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 decision(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 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 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.
- g. 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 decision(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 City, and/or parties initiating or bringing such action

PLANNING COMMISSION RESOLUTION

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

RESOLUTION OF THE NOVATO PLANNING COMMISSION  
RECOMMENDING THE NOVATO CITY COUNCIL APPROVE  
THE HAMILTON VILLAGE PRECISE DEVELOPMENT PLAN  
AND DESIGN REVIEW, 802 STATE ACCESS ROAD, APN 157-  
970-03

WHEREAS, the City of Novato (“City”) received applications from City Ventures (“Applicant”) for a general plan amendment, master plan amendment, precise development plan, design review, vesting tentative map, and a request to grant easements for the proposed Hamilton Village project (“Project”) proposed to be located at 802 State Access Road, APN 157-970-03 (“Project Site”); and

WHEREAS, the Precise Development Plan (“PDP”) application sets forth the specific development regulations applicable to the Project and the Design Review (“DR”) sets forth the specific design components of the Project consisting of the site design, landscaping, and architectural plans prepared for the construction and operation of 75 residential townhome style condominiums.; and

WHEREAS, the City determined the approval of the Project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended for approval by the Design Review Commission at its public hearing of December 18, 2019 served as the Project to be analyzed pursuant to CEQA; and

WHEREAS, an Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared in compliance with the provisions of CEQA, and the City of Novato Environmental Review Guidelines. The Initial Study considered the Project Site and its setting and the potential effects of assigning the Medium Density Multiple Family Residential (R10) land use designation to the Project Site, and the effect of approving the Project, including the PDP and DR entitlements , and the construction and operation of the Project itself on the basis of the technical subjects (e.g., aesthetics, air quality, biological resources, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project and its associated actions could result in potentially significant impacts to the environment in the CEQA topical areas of: Biological Resources, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to less-than-significant levels; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato

Environmental Review Guidelines, finding that although the Project, including the PDP and Design Review at issue herein, could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the IS/MND; and

WHEREAS, by separate resolutions adopted prior hereto, the Planning Commission did recommend the City Council adopt the IS/MND prior to taking action on the Project and recommended approval of the general plan amendment and master plan amendments requested for the Project; and

WHEREAS on October 2, 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, on November 6, 2019, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, massing, and conceptual landscaping and architecture proposed for the Project; and

WHEREAS, on December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, massing/height, and conceptual architecture and landscaping; and

WHEREAS, public notices describing the Planning Commission's public hearing on the proposed IS/MND prepared for the Project, including the PDP and Design Review at issue herein, and were sent to all affected property owners within 600-feet of the boundaries of the Project site, 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 a 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 PDP and DR at issue herein.

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 on the PDP and Design Review 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, including the PDP and Design Review

at issue herein, and the Project's other associated development entitlement requests (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR, and the Novato Municipal Code, (5) Original Master Plan (Master Plan for the Hamilton Field DODHF Property) and its related EIR (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, the PDP and Design Review at issue herein, and the Project's associated development entitlement requests (7) all documentary and oral evidence received at public workshops, meetings, and hearings regarding the IS/MND, the Project, including the PDP and Design Review at issue herein, and the Project's associated development entitlement requests (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the city of Novato and its surrounding areas.

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

### **Section 3. Findings**

#### **Precise Development Plan**

The Planning Commission hereby makes the following findings as required by Section 19.42.060.F.3 of the Novato Municipal Code with the respect to the Precise Development Plan:

1. The proposed precise development plan is consistent with the general plan, any applicable specific plan, and master plan;

**Facts in Support:** The Planning Commission, by separate resolution, recommended approval of a general plan amendment to change the land use designation applicable to the Project Site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10). The R10 land use designation allows the construction and operation of multi-family residential land uses (e.g., apartments, condominiums, and townhomes) and accessory residential uses (e.g., home occupations). The R10 land use designation permits a density range of 10.1 to 20 dwelling units per acre.

The Planning Commission, by separate resolution, recommended approval of amendments to City of Novato Ordinance No. 1419 approving the Master Plan (consisting of the Hamilton Army Airfield Reuse Plan) for the Hamilton Field DODHF Property ("Master Plan") to accommodate the Project, including amending maps of the Master Plan (essentially the zoning) applicable to the Project Site from Community Facilities and Civic Uses – Special Uses Permitted (CFCU-SP) to the Medium Density Multiple Family Residential (MDMFR) applicable the Project Site, approving conforming text amendments and increasing the height limit applicable to the Project. The MDMFR zoning permits the same uses and development density as the R10 land use designation of the Novato General Plan.

The PDP for the Project contemplates the construction and operation of 75-unit townhome style condominium units at the 4.71-acre site. Accordingly, the Project, as presented in the PDP, would

have a density of approximately 15.9 homes per acre. The Project's proposed use and density level are consistent with the multi-family residential uses and density range permitted under the R10 land use designation of the Novato General Plan and MDMFR land use category of the Master Plan.

The PDP, consisting of the project plans and PDP text, as documented in **Exhibit A** attached hereto and incorporated herein by reference, has been reviewed against the applicable policies of the Novato General and Master Plan as amended, and is found to be consistent with all applicable policies as documents in **Exhibit B**, General Plan Consistency Findings for Hamilton Village.

2. The proposed precise development plan would produce a comprehensive development of superior quality (e.g., appropriate variety of structure placement and orientation opportunities, appropriate mix of land uses and structure sizes, high quality architectural design, appropriate and attractive amounts of landscaping and open space, improved solutions to the design and placement of parking facilities, etc.) than might otherwise occur from more traditional development applications;

**Facts in Support:** The PDP, consisting of the Project plans and PDP text, describes the Project's site design, landscaping, and parking. These components of the Project have been designed based on the development standards and design guidelines specified in the Master Plan and applicable sections of the Novato Municipal Code, as well as physical constraints and surrounding land uses. The Project's design is complimentary to and compatible with adjacent uses and development including Lanham Village to the south, the Novato Village senior apartments to the east, and Homeward Bound of Marin's New Beginnings Center and Next Key Center to the north.

The Project has been designed to avoid existing easements on the Project Site, and the buildings have been sited on the flat portions of the site, avoiding the rocky and hilly western area of the property. The landscaping plan includes extensive landscaping throughout the Project to add visual interest and create an appealing streetscape. Trees along the northern property line will also maintain privacy for any future residents of the HUD parcel, immediately adjacent to the Project Site.

The buildings have been designed in the Spanish eclectic style which defines the architectural history of Hamilton Field and is consistent with building design in the surrounding neighborhood. Building designs include fully articulated elevations with varying horizontal wall planes and recesses. These features avoid the building presenting a flat appearance when viewed from State Access Road. The Project's height and bulk have been designed in consideration of adjacent residential development and avoids appearing imposing to both the immediately adjacent Novato Village senior apartments and the Lanham Village development to the south of the site.

The PDP indicates the Project would maintain a front setback of 9-feet, where a minimum 20-foot setback would be required for a similar multi-family project in a traditional zoning district classification. The rear setback is 40-feet, where a 25-foot setback would otherwise be required. Side setbacks are 7-15 feet from the eastern property line where 10-feet would otherwise be required. The City's Planned District (PD) process allows a PDP to present development standards unique to a project and project site. The flexibility in design is permitted provided that the alternative development standards result in a development that is compatible with surrounding



structures and of superior quality to a project that might otherwise result from application of the traditional development standards of the NMC.

The orientation of the buildings along State Access Road facing the street, along with the reduced front setback proposed by the PDP fosters a sense of community and contributes to the neighborhood identity of the Commissary Triangle area. Placement of the buildings closer to State Access Road also reduces the apparent width of the roadway. Building 16 at the southeastern corner of the site has a proposed 7-foot side setback from the eastern property line. Due to constraints including the water line easement and rocky hill on the western portions of the site, the development along State Access Road was pushed east to avoid these constraints. This reduced side setback would not adversely affect the adjacent Novato Village senior apartment building, recognizing that ingress and egress to Building 17 is situated on the north and south sides, avoiding excessive activity on the eastern side of the building adjacent to the apartments.

The Project includes 28,196 sq. ft. of common open space, 15,144 sq. ft. of private open space consisting of decks and patios, and a 1.10-acre on-site park for resident and public use, where 22,250 square-feet would otherwise be required. In particular, the amount of private and common open space is greater than the 300-square foot requirement (150- sq. ft. common and 150-sq. ft. private) per unit found in the Novato Municipal Code for similar multi-family residential projects in the R10 zoning district. However, sixteen (16) units (Plan 1) are provided with less than 150-square feet of private open space. These corner units feature second-floor decks of either 93 sq. ft. (9'-3" x 10'-9") or 77 sq. ft. (7'-2" x 10'-9"). These particular units have two street frontages, a common walkway frontage, and a common wall connection to another unit, which does not permit provision of a private ground level patio like the other units in the Project. Despite this circumstance, the overall availability of common open space and included amenities (family an large group social area (BBQs and counters, picnic tables, fire table), botanical garden, small group social area (seating and fire table ), mini plaza, and meditation garden) and the on-site park (bocce courts, lawn area, kid's play area, and community garden), provide more than sufficient outdoor space to off-set the smaller amount of private open space at these units.

The generous open space and park amenities are accommodated by allowing reduced front and side setbacks (east side), reducing required on-site guest parking to be slightly below that required under the closest traditional zoning district. The reduced guest parking is offset via construction of on-street parking stalls to serve guests as well as users of the publically available park. The Project also proposes the allowance of greater building height to maintain more compact building footprints, thereby leaving more land area to be devoted to landscaped open space.

On December 18, 2019, the Design Review Commission conducted a public hearing to consider making a formal recommendation to the Planning Commission and City Council regarding the Project's site design, height/massing/scale, landscape plan, and architecture. The DRC was pleased with the Project and adopted a motion recommending the Planning Commission and City Council approve the site design, height/massing/scale, and general architecture and landscape concepts proposed for the Project, including the proposed deviations from the standard provisions of the Novato Municipal Code to support more generous open space in the Project.

Based on these observations, the Project's plans, and the DRC's recommendation, the PDP is considered to present a comprehensive development plan that is of superior quality to what might

occur from the application of the traditional development standards of the Novato Municipal Code, consistent with Finding 2, above.

3. The design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle access and public services and utilities (e.g., drainage, fire protection, sewers, water, etc.), would ensure that the proposed development would not endanger, jeopardize, or otherwise be detrimental to the public health, safety, or general welfare, or injurious to the property, or improvements in the vicinity and zoning district in which the property is located;
4. The proposed precise development plan standards are reasonably suited to the specific characteristics of the site, and are compatible with the existing and future land uses in the surrounding neighborhood; and
5. The subject site is:
  - a. Physically suitable for the type and density/intensity of development being proposed;
  - b. Adequate in shape and size to accommodate the use and all fences and walls, landscaping, loading, parking, yards, and other features required by the zoning code; and
  - c. Served by streets and pedestrian facilities adequate in width and pavement type to carry the quantity and type of traffic expected to be generated by the proposed development.

**Facts in Support of Findings 3, 4, and 5:** The Project Site is an approximately 4.71-acre parcel located on the north side of State Access Road, east of Nave Drive. The immediately adjacent vacant parcel to the west is comprised of a large rock outcropping known as “Christmas Tree Hill.” Across State Access Road to the south of the Project Site is the Lanham Village residential development. North of the Project Site are the New Beginnings Center and Next Key Center operated by Homeward Bound of Marin and the HUD Parcel currently proposed to be developed with affordable and veteran housing. Novato Village senior apartments are adjacent and east of the Project Site.

The majority of the Project Site is flat with the exception of 1.3 acres located adjacent to the Christmas Tree Hill parcel. The Project Site is the former site of the base commissary and shops for Hamilton Army Airfield and is currently vacant.

There are 18 trees on the site growing in groups along State Access Road. Four (4) of the trees are of heritage size (trunk diameter of 24-inches or great). Notably, the landscaping plan for the Project includes the planting of approximately 120 trees throughout the site and along the north and south perimeters.

There are no natural constraints on the site such as wetland features, however there is a 15-foot wide water line easement running the length of the western property line.

The Precise Development Plan would facilitate development of the Project, a 75-unit townhome style condominium development. The units would be distributed throughout 17, 39-foot tall

buildings. Each unit would include an attached 2-car garage. Uncovered surface parking would consist of 18 stalls, 15 of which consist of parallel stalls located along the rear (northern) property line. Additional improvements include a large central lawn feature, as well as barbecue and seating area, and landscaping. A 1.1-acre park to be open to the general public and include a kid's play area, bocce ball court, and meditation garden is also proposed.

The Project plans were referred to public agencies responsible for reviewing and providing services to the Project, including but not limited to the Novato Sanitary District, North Marin Water District, Novato Fire Protection District, Novato Building Division, Novato Public Works Department. These agencies had the opportunity to review and provide comment and conditions of approval for the Project intended to ensure the Project's improvements (including vehicle access, emergency vehicle access, drainage, sewer service, water service, and fire safety) are designed and constructed in a manner that is not detrimental to public health, safety, or welfare, and are not materially injurious to the properties or improvements in the vicinity, and do not interfere with the use and enjoyment of neighboring existing or future development. These agencies did not identify any significant design issues that would negatively impact public health, safety, or welfare, result in injury to properties or improvements in the vicinity, or interfere with the use and enjoyment of neighboring existing or future development. Each agency recommended conditions of approval to ensure the construction detail drawings submitted during the building permit process provide adequate design information to ensure compliance with agency standards. The Project is subject to these conditions and each agency will review the construction detail drawings to confirm compliance.

The Project has requested a reciprocal emergency vehicle access easement over neighboring City-owned properties (APNs 157-970-05, -06, and -07), as well as a private access easement over a 24.60-foot by 38.15-foot portion of the HUD parcel (APN 157-970-07). The emergency vehicle access easement is intended to ensure the Project and the neighboring city properties and development thereon have adequate emergency access. The private access easement is intended to allow a drive aisle in the Project to encroach on a small portion of the HUD parcel to ensure adequate on-site circulation and turning radii for emergency vehicles. These easements were considered by the Novato Public Works Department and Novato Fire Protection District, both of which found the easements to adequately serve the Project and the neighboring city-owned properties.

An Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the project to determine if construction or operation of the Project would result in potentially significant environmental impacts. This analysis included review of various technical topics addressing the compatibility of the Project with the Project Site and its surrounding environment, including existing and future development in the area. In no instance did the IS/MND identify any significant impacts associated with construction and operation of the Project that could not be mitigated to a less than significant level. The findings of the IS/MND indicated the proposed land use and design of the Project would not significantly impact the existing residential land uses at the Novato Village senior apartments or Lanham Village, or the nearby New Beginnings Center and Next Key Center or the proposed development for the HUD parcel. Additionally, the IS/MND confirmed the Project is designed and can be modified to properly address physical characteristics of the Project including but not limited to soil conditions and circulation impacts. The mitigation measures recommended by the IS/MND to reduce or avoid potential environmental impacts in the areas of biological resources, cultural resources, geology/soils, hazards/hazardous materials, transportation, tribal cultural resources, and utilities/service systems are applied as conditions of approval to the Project.

The Project was presented to the Novato Design Review Commission on November 6, 2019, at a design review workshop, and again on December 18, 2019, for a formal recommendation to the

Planning Commission and City Council regarding whether the Project would be compatible with the physical characteristics of the Project Site and surrounding area. The Design Review Commission also considered whether the Project's design was acceptable for the type of multi-family residential use proposed for the Project. The Design Review Commission recommended the Planning Commission and City Council approve the site design proposed for the Project, recognizing the Project's well resolved site plan, appropriate height and massing, and extensive landscaping, and architectural treatments. Accordingly, the Project and its associated PDP standards are considered to be suitable to the Project Site consistent with Finding No. 4. and conversely, the Site adequately accommodates the Project consistent with Finding No. 5.

The Project Site is located in an area that is predominantly developed with multi-family residential uses at densities of 30 dwelling units per acre or less, including Novato Village senior apartments, Lanham Village condominiums, and the New Beginnings/Next Key Centers. The density and operational characteristics of the Project are consistent and compatible with these existing developments. Future development in the area will consist of multi-family residential uses similar to the Project and existing development. As such, the Project will be consistent with future land uses in the area. As discussed in IS/MND, the Project does not result in environmental impacts (e.g., traffic) that would negatively impact surrounding development.

Based on the observations above, the PDP is considered to be consistent with Findings 3, 4, and 5.

### **Design Review**

The Planning Commission hereby makes the following findings as required by Section 19.42.030.F of the Novato Municipal Code with the respect to the Project's Design Review, based on the findings and recommendation of the Novato Design Review Commission:

6. The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines, and all applicable provisions of this code, including this title and any approved master plan and precise development plan.

### **Facts in Support:**

#### *General Plan*

The proposed Project is consistent with all applicable General Plan policies, 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, including those relevant to Design Review.

#### *Master Plan*

The Hamilton Army Airfield Reuse Plan (Reuse Plan) was adopted by the City in October 1995 and serves as the master plan for a large portion of the former Hamilton Army Airfield. By separate resolution adopted prior hereto, the Master Plan was amended to increase the height limit applicable to the Project Site, and add text recognizing for-profit multi-family housing as an acceptable land use on the Project Site. The Master Plan, as revised, contains policies that describe the type, location, and intensity of new development, as well as guidance addressing the design of new residential buildings. Section 8 of the Reuse Plan includes design guidelines for

development within Planning Area 4 – Commissary Triangle.

The guidelines address aesthetic quality, landscaping, streetscapes, site planning, parking, lighting, and fencing. The Project has been designed in a manner that is consistent with the applicable design guidelines of Section 8.0 of the Reuse Plan based on the following observations:

- The Project's site design creates a logical arrangement of buildings and parking that conveys a residential neighborhood feeling along State Access Road and minimizes the appearance of the surface parking by it on the north side of the project out of view from public vantage points;
- The height, massing, and architectural design of the Project is reflective of the Spanish eclectic architectural style that defines Hamilton Field's distinct identity and historic character;
- The Project's roof design will screen roof-mounted mechanical and solar equipment;
- The Project provides horizontal and vertical articulation and four-sided architecture creating visual interest, is aesthetically appealing, and reduces the apparent height, mass and scale of the building; and
- The proposed landscaping plan relates well to the scale of the Project, appropriately softening the mass of the residential buildings and adequately screens surface parking areas.

Based on the observations above, the Project's site design, landscaping, and architecture are considered to be consistent with the Master Plan for the Hamilton Field DODHF Property as revised.

#### *Precise Development Plan*

As set forth above, the Project includes a proposal to adopt a precise development plan (PDP) has been found by the Planning Commission to reflecting the Project's design and meet the requirements of the Novato Municipal Code. Such As such, the Project's design is consistent with the Precise Development Plan.

7. The proposed project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

**Facts in Support:** The Project Site is undeveloped and the area characterized by asphalt covered expanses and vacant buildings to the north of the site on the adjacent parcel, Lanham Village to the south, and Novato Village senior apartments to the east. The current state of the site does not present an attractive environment and does not provide a sense of community or identity. Given the existing conditions of the site, the Project would significantly improve the character and appearance of the property along State Access Road, benefitting the residents of Lanham Village, Novato Village, and the larger community of Hamilton Field. Specific project features that create these benefits include:

- Site design which includes an appropriate arrangement of building, outdoor spaces, and parking areas, recognizing the constraints of the project site, and respecting the potential for future development on adjacent parcels to the north;
  - Buildings along State Access Road are oriented towards the street, fostering a sense of community and contributing to the neighborhood identity of the Commissary Triangle area;
  - An appealing interpretation of the Spanish eclectic architectural style which defines the identity of Hamilton Field;
  - An extensive landscaping plan, including a public park, that compliments the architecture of the project, reducing apparent building height and mass, and creates an attractive site and streetscape appearance.
8. The proposed development would not be detrimental to the public health, safety, or welfare, is not materially injurious to the properties or improvements in the vicinity, does not interfere with the use and enjoyment of neighboring existing or future development and does not create potential traffic, pedestrian or bicycle hazards.

**Facts in Support:** Refer to the Facts in Support of Findings 3, 4, and 5 relating to the PDP provided above.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission does hereby recommend the City Council approve the PDP and Design Review for the Project, consisting of the project plans prepared by WHA, CSW/Stuber Stroeh Engineering Group, and C2 Collaborative dated March 31, 2020, and as described in **Exhibit A**, attached hereto and incorporated herein by reference and based on the findings set forth herein and subject to the conditions of approval below:

**Section 4. Conditions of Approval and Limitations**

The Planning Commission hereby recommends the City Council apply the following conditions of approval to the Project:

1. The Precise Development Plan shall become valid only upon the effective date of the Master Plan amendments required for the Project by City Council.
2. The Precise Development Plan approval shall expire two years from the date of final City Council action on the Master Plan Amendment required for the Project, within which time a final design review approval must be obtained. The Precise Development Plan shall remain valid as long as the final design review approval for the Project is maintained.
3. The Project shall be limited to development of up to 75 condominium units, representing a density of 15.9-units per acre.

4. Any proposed conversion of the Project to another use(s) shall require amendment of the Master Plan and Precise Development Plan.
5. The Project shall be constructed in accordance with the design plans, prepared by WHA, CSW/Stuber Stroeh Engineering Group, and C2 Collaborative dated March 31, 2020, and the conditions of approval stipulated herein. Minor modifications to the Project's site design, landscaping, or architecture may be considered and acted upon by the Community Development Director pursuant to Novato Municipal Code Section 19.42.060H.
6. The Project shall return to the Design Review Commission for a final design review action. The additional design review shall address the final details of the Project's site design, landscaping, and architecture, including, but not limited to:
  - a. Architectural detailing (e.g., window/door detailing, siding, trim details, etc.);
  - b. Exterior colors;
  - c. Tree and plant locations, species, size;
  - d. Type and style of site lighting, and;
  - e. Final design, including materials to construct the public art component pursuant to Novato Municipal Code Division 19.21, Art Program.
7. The project shall comply with all conditions of approval specified in **Exhibit C** attached hereto.
8. 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 decision(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 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 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 – Hamilton Village Precise Development Plan Text

Exhibit B – Novato General Plan Consistency and Advancement Findings

Exhibit C – Hamilton Village Conditions of Approval

Reference: P2020-011

DRAFT

## **EXHIBIT A**

### **HAMILTON VILLAGE PRECISE DEVELOPMENT PLAN TEXT**

#### Residential Condominiums

1. Maximum Number of Residential Condominiums: 75 units
2. Unit Size Range: 1,339 to 1,848 square-feet
3. Minimum Parking Required:
  - a. 2.0 spaces per unit in a garage;
  - b. 18 on-site, uncovered guest parking space
  - c. 22 on-street parking spaces along the development's frontage at State Access Road

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

4. Minimum Setback Requirements. As depicted on the project plans prepared by WHA, CSW/Stuber Stroeh Engineering Group, and C2 Collaborative dated March 31, 2020.
5. Accessory structures (e.g., trellises, patio cover) are permitted for individual residential condominiums provided such features do not encroach into the common area parcel.
6. Accessory residential uses shall be permitted in accordance with the Chapter 19 of the Novato Municipal Code as applicable to multi-family residential land uses.

#### Common Area Parcel

1. Accessory structures (e.g., sheds, trellises, patio cover) serving the overall Project can be located in common areas pursuant to Novato Municipal Code Section 19.34.032, as may be amended.
2. Accessory structures serving individual condominiums shall not be allowed in common areas since such areas serve to meet minimum common open space requirements of the project.

#### General Requirements

1. Minimum Parcel Size and Condominium Locations. As depicted on the project plans prepared by WHA, CSW/Stuber Stroeh Engineering Group, and C2 Collaborative dated March 31, 2020.

2. Maximum Building Coverage: 40% of total project area.
3. Maximum Building Height: 40-feet measured from finished grade.
4. Minimum Amount of Landscaping. As depicted on the project plans prepared by WHA, CSW/Stuber Stroeh Engineering Group, and C2 Collaborative dated March 31, 2020.

#### Post Approval Procedures

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

**EXHIBIT B**

**HAMILTON VILLAGE**

**NOVATO GENERAL PLAN  
CONSISTENCY FINDINGS**

**1996 NOVATO GENERAL PLAN**

***LAND USE CHAPTER***

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

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

*Facts in Support (LU Policies 1 and 2):* The Project includes a general plan amendment to change the land use designation of the site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10). The Project consists of constructing and operating residential condominiums consistent with the R10 land use designation. Upon approval of the requested project entitlements, including the noted general plan amendment, the Project will be consistent with the R10 land use designation and with all other applicable general plan policies, as described in further detail below.

The R10 land use designation permits multi-family residential uses, including condominiums and townhomes, within a density range of 10.1 to 20.0 dwelling units per acre. The Project is consistent with this land use designation since it involves the construction of residential condominiums at a density of approximately 15.9 units per acre.

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

**LU Policy 7 Growth Management.** Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

*Facts in Support:* The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water,

sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the project. All other utilities including electricity, gas, cable, internet, and telephone service are located in the State Access Road right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis. However, the Novato Sanitary District (NSD) indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, adopted as a condition of approval of the Project, requires the Applicant to pay a fee to NSD to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

Based on the analysis in the IS/MND prepared for the project, incorporated herein by reference, and the observations above, the Project is consistent LU Policy 7.

## ***TRANSPORTATION CHAPTER***

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

*Facts in Support:* The CEQA MND/IS prepared for the Project analyzed the potential for the Project to create safety hazards related to roadway operations. This analysis considered the location and design of frontage improvements, the driveway serving the Project, and the proximity of nearby driveways serving Lanham Village and Novato Village senior apartments. The analysis determined the driveways serving the Project have been designed to provide adequate site distance allowing drivers to enter and exit the Project Site with unobstructed views onto State Access Road. To ensure that adequate visibility along the driveway serving the Project is maintained, the IS/MND includes Mitigation Measures TRA-1. Mitigation Measure TRA-1 requires landscaping along the project driveway not to exceed a height of 3-feet to ensure visibility for vehicles entering and exiting the driveway.

The IS/MND also includes Mitigation Measure TRA-2 to ensure that emergency vehicles can access the Project Site through the Project drive aisles. Mitigation Measure TRA-2 requires the drive aisle curbs to be painted red to prohibit vehicle parking with the drive aisle area to ensure adequate emergency vehicle ingress and egress.

The Project includes a request for a private access easement over small segment of city-owned property identified as APN 157-970-07 located at northeast corner of the Project Site at the entrance to the reciprocal emergency vehicle access easement. The private access easement would allow widening of a drive aisle in the Project to accommodate project related traffic, as well as

accommodating the turning movements of emergency vehicles serving the Project and entering and exiting the EVA. This easement will ensure adequate on-site circulation, as well as sufficient emergency access.

Based on the findings of the traffic analysis presented in the IS/MND, the Project is consistent with TR Policy 11.

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

*Facts in Support:* The Applicant is responsible for construction of full street improvements along the Project Site's frontage with State Access Road as indicated on the Project plans. These improvements would consist of curb, gutter, sidewalk, and any work necessary to correct or improve the existing paved sections of State Access Road within the limits of the Project Site's frontage. The Project's plans delineate the location and general design of the frontage improvements required for the Project, including a new sidewalk segment between Novato Village senior apartments to the south and Nave Drive to the west. The proposed sidewalk improvement will offer safer and more convenient pedestrian access to existing residents in the area and new residents of the Project. Accordingly, the Project is consistent with TR Policy 22.

## ***HOUSING CHAPTER***

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

*Facts in Support:* The Project Site is an undeveloped and partially paved lot. Novato Village senior apartments are located to the east, Christmas Tree Hill (undeveloped rock outcropping) is immediately west of the Site, Lanham Village (residential condominiums) is to the south, and former military warehouses and Homeward Bound of Marin's homeless services facilities are located to the north.

The Project's buildings and landscaping have been designed in a manner consistent with of the neighboring Novato Village senior apartments and that of the greater Hamilton area, including the use of Spanish themed architecture and the creation of internal courtyards, pedestrian paths, and a central outdoor space. The Project's building height (40-feet) would be taller than nearby development, however architectural elements including varying wall planes and recesses break up the façade of the buildings and create visual interest to reduce apparent height, bulk and mass of the Project. These design elements avoid buildings with a tall, flat appearance. Given the 80-foot right-of-way of State Access Road, and existing mature trees located along the south side of the road, Hamilton Village should not feel imposing to residents in the one- and two-story residences across the street in Lanham Village. Further, the Project is separated from Novato Village (30-foot building height) by approximately 20-feet, which is an acceptable distance to allow the Project's multi-story development.

The Applicant has designed the Project, including landscaping and tree planting at the perimeter of the site, in a manner intended to soften the appearance of the structures from surrounding areas

by breaking up wall planes with interesting architecture and strategically diffusing views of buildings with new tree plantings. In addition, the Project creates a desirable presence of building facades and landscaping at the edge of State Access Road that would improve the appearance and experience of travelling along this roadway. Based on the design features described above, the project is consistent with HO Policy 3.2.

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

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story stepbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.
- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

*Facts in Support:* The Project includes various design elements consistent with the design principals of Housing Policy 3.3, including:

- Building materials consisting of concrete tile roofing, decorative foam accent gables, stucco exterior, pot shelf and window accents, shutters, and roll-up garage doors, providing visual interest and building articulation.
- Articulated elevations featuring wall projections and recesses, as well as varying roof styles and patterns, and separations between buildings which reduce the apparent height, bulk and mass of the buildings.
- The reduced front setback along State Access Road which activates the streetscape and creates a sense of community by conveying more of a neighborhood street feeling. Breaks are included between the buildings located along the State Access Road frontage, thereby reducing perception of mass from the street.

- A central entryway is oriented toward State Access Road, which leads directly into a large central open space area, creating a focal point, and reducing the apparent height, bulk and mass of buildings.
- Building facades are not dominated by garages, and balconies and/or trellis structures are incorporated above the garages on the majority of buildings to offset the prominence of the garage door. Placement of the on-site uncovered parking stalls are located towards the rear of the site and are screened from view.

**HO Policy 4.2 Renewable Energy Technologies.** Promote the use of sustainable and/or renewable materials and energy technologies (such as solar and wind) in new and rehabilitated housing when possible.

*Facts in Support:* The Project includes a 2-kilowatt photovoltaic system for each residential unit and is therefore consistent with HO Policy 4.2.

**HO Policy 6.1 Transit-Oriented Development.** Encourage Multi-family Development within an easy walking distance to transit access points – a station or location served by one or more transit lines – where reduced automobile usage and parking requirements are possible. Maximize the use of these limited land resource sites to reduce overall energy, land, water and other costs.

*Facts in Support:* The Project would develop 75 multi-family residential units, including 15 affordable units, within one-half mile of the Hamilton SMART rail station and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 6.1

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

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

*Facts in Support:* The Project would provide 75-units of ownership, multi-family housing featuring small and large units located within one-half mile of the Hamilton SMART rail station



and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 7.2

**HO Policy 9.1 Flexibility and Incentives in Development Standards.** The City will seek ways to promote housing, such as increased FAR, height limits and density, and reduced parking, based on the location and design of the development, compatibility with adjacent uses, and the type, size, and income levels of the occupants of the housing. The purpose of this policy is to recognize that smaller, more affordable housing located near transit, jobs and services will generate fewer trips, require less parking, and have fewer area-wide impacts.

*Facts in Support:* The Project includes requests to allow increased building height, reduced parking, and flexibility on setbacks to accommodate 75 multi-family units, including 15 affordable units. These requests are based on the need maintain the proposed unit count to support the provision of the noted affordable units, providing generous common outdoor facilities for residents, and constructing an approximately 1-acre private park available for public use. Therefore the Project is consistent with HO Policy 9.1.

**HO Policy 10.1 Inclusionary Housing Approach.** To increase workforce affordable housing construction, the City will continue to require residential developments to provide a percentage of units or an “in-lieu” or other fee for very low, low and moderate income housing. The units provided through this policy are intended for permanent occupancy and must be deed or rent restricted, including but not limited to single family housing, multi-family housing, condominiums, townhouses, and apartments.

*Facts in Support:* The Project, consistent with HO Policy 10.1 and Novato Municipal Code Division 19.24, *Affordable Housing Requirements*, provides 15 affordable condominium units for buyers of low (8 units) and moderate (7 units) income. These units will be subject to an affordable housing agreement and associated deed restriction to ensure long-term affordability.

## ***ENVIRONMENT CHAPTER***

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

*Facts in Support:* The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section 10, Hydrology and Water Quality of the IS/MND, the Project would be required to comply with the City of Novato’s stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), as well as the requirements of NMC Chapter 7-4, *Urban Runoff Pollution Prevention* and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

The Novato Public Works Department is requiring the Project comply with numerous water quality related conditions of approval. These conditions require the developer to create a Stormwater Control Plan based on the Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. A SWPPP is required to reduce potential adverse impacts to surface

water quality through the Project's construction period. The SWPPP shall include the minimum Best Management Practices (BMPs). These include BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

Based on the facts above, the Project is consistent with EN Policy 7.

**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 of 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:* The CEQA IS/MND prepared for the project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in Section 4, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1, the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffer areas and presence of a biological monitor on the construction site to ensure construction activities take place outside of the buffer area.

Based on the findings of the CEQA IS/MND and the noted mitigated measure, the Project is consistent with the and advance EN Policies 18 and 19.

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

*Facts in Support:* A total of 25 trees are currently present at the Project Site and have trunk diameters ranging in size from 6- to 54-inches. All of the trees on the Project Site will be removed, some due to poor health as evaluated by a certified arborist, and the remainder due to construction impacts. The trees to be removed include four (4) heritage trees, which are described in Table 2 below:

**Table 1**

Type	Diameter	Health*
Coast Live Oak	31-inches	Good
Aleppo Pine	35-inches	Marginal
Aleppo Pine	54-inches	Marginal
Aleppo Pine	45-inches	Marginal

\**Good*: health is average, with no significant signs of pest or disease.

*Marginal*: health is compromised and distress is visible, such that the tree may not survive.

Tree removal to accommodate new development is not prohibited by the General Plan or Zoning Ordinance, and is considered on a case-by-case basis when a proposed project is subject to discretionary review. Notably, the Project includes planting of over 120 trees along the perimeter and throughout the interior of the Project Site. Based on the tree replacement ratio, the Project is consistent with EN Policy 26.

**EN Policy 29 Energy Conservation Measures in Buildings.** Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

*Facts in Support:* The Project will be designed to meet the requirements of the California Building Code and Title 24 of the California Code of Regulations. The Project's construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of the building permit. Additionally, the Project includes solar panels for each unit, and well as all electric appliances. Each garage is wired to allow Electric Vehicle (EV) charging, and there will be an option for future owners to purchase a solar battery to better utilize the solar system.

Based on the noted facts above, the Project is consistent with and advances EN Policy 29.

**EN Policy 35 Watershed Management.** Minimize the effects of pollution in stormwater runoff. Retain and store where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

**EN Policy 37 Using CEQA to Reduce Water Quality Impacts.** Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

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

State law.

*Facts in Support:* The Project includes individual solid waste and recycling storage for each of the proposed units, consistent with EN Policy 39.

**EN Policy 44 Park and Recreation Facilities.** Develop and maintain to the maximum extent possible given available resources a system of parks to meet the needs of Novato residents.

*Facts in Support:* The Project includes a 1.1-acre private park to be developed with outdoor amenities, including bocce ball courts, a children's play area, community garden beds and meditation garden. The park will serve future Project residents and the general public, as offered by the Applicant. A condition of approval requiring dedication of a public access and use easement has been applied to the Project to ensure the park is available for public use in perpetuity. The Project is considered to be consistent with EN Policy 44.

## ***SAFETY AND NOISE CHAPTER***

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

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

*Facts in Support:* Seismic hazards and soil stability are addressed in Section 7, Geology and Soils, of the CEQA IS/MND prepared for the Project. The analysis contained in the IS/MND determined the Project would likely be subject to liquefaction during a seismic event due to the presence of liquefiable soils on the Project Site as identified during the geotechnical investigation. There is also the potential for rock fall and lateral spreading, phenomena that are often associated with liquefaction. Mitigation Measure GEO-1 is recommended to reduce risks to people and improvements at the site. Mitigation Measure GEO-1 requires all recommendations found in the Geotechnical Investigation prepared for the Project to be included as conditions of approval and implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: grading, surface and subsurface drainage, bio-filtration facilities, foundations, miscellaneous concrete flatwork, retaining walls and foundations, pavement areas, utility trenches, and project review and construction monitoring. Furthermore, application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., California Building Code, City ordinance and conditions of approval) would further reduce seismic hazards.

Based on the facts above, the Project is consistent with and advance SF Policies 1 and 3.

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

*Facts in Support:* As described in Section 10, Hydrology and Water Quality of the CEQA

IS/MND, the Project's drainage system has been designed to meet the City's criteria for drainage and flood control. Specifically, the drainage system proposed would be sufficient to contain a 25-year peak storm event, and the capacity of the existing storm drain system can support the additional runoff from the Project during a 25-year storm event. Additionally, a grass swale in the center of the Project would provide stormwater management and proposed grading would drain stormwater to the proposed storm drainage system prior to connecting to existing stormwater drain systems along the east side of the property. Additionally, the Project would be required to comply with NMC 7.4, Urban Runoff Pollution Prevention, requiring the project to be designed to control runoff volume to the maximum extent feasible through such features as the on-site bioretention (grassy swale) features identified in the Project plans and subject to conditions requiring a stormwater control plan and stormwater management agreement with maintenance by the HOA.

The IS/MND identified that the project would not increase the rate or amount of surface runoff in a manner resulting in flooding or exceeding the capacity of the storm drainage system. Based on these observations, the Project is consistent with SF Policy 9.

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

**SF Policy 17 Level of Fire Protection.** Work with Novato Fire Protection District to help ensure a continued high level of fire protection.

*Facts in Support:* The Project was referred to the Novato Fire Protection District for review and comment on fire and emergency safety issues. The Novato Fire Protection District submitted comments and recommended conditions of approval for the Project and will review the construction level design plans prepared for the Project to ensure the development includes all necessary fire suppression and vehicle access features.

As described in Section 20, Wildfire, of the CEQA IS/MND, the Project Site is not located in an area with high fire risk, and no mitigation is required to reduce the risk of fire.

The Project includes granting and receiving a reciprocal emergency access (EVA) easement to provide optimal emergency access for the Project and the adjoining City properties (APNs 157-970-05, -06, and -07) leased by Homeward Bound of Marin. This easement will ensure the Novato Fire Protection District has adequate access to serve the Project and the Homeward Bound or Marin's existing and proposed homeless services facilities.

Based on these observations, the Project is consistent with SF Policies 16 and 17.

**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**

<b>Residential Development</b>	<b>Up to 60 dB</b>
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 13, Noise, of the CEQA IS/MND, the existing ambient noise level at the Project Site is 58 dBA Leq. This noise level is within the noise range specified in SF Table 3 and residential use of the property is compatible with the existing noise environment of the Project Site consistent with SF Policy 37.

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

*Facts in Support:* As described in Section 13, Noise, of the CEQA IS/MND, construction of the Project could temporarily expose nearby sensitive receptors at Lanham Village and Novato Village to increased noise levels exceeding the exterior noise level threshold for residential land uses as shown in SF Table 3, above. However, NMC 19.22.070, Noise and Construction Hours, permits authorized construction activities to exceed these noise thresholds when construction occurs between 7:00 am and 6:00 pm on weekdays, and 10:00 am and 5pm on Saturdays. Construction is not permitted on Sundays, nor on federal holidays. A condition of approval will be included requiring construction of the Project to adhere to the provisions of NMC 19.22.070, ensuring construction noise will be less than significant to nearby sensitive receptors.

Sources of noise associated with operation of the Project include rooftop heating, ventilation, and air conditioning (HVAC) equipment, parking lot vehicle activity, and solid waste and recycling collection. This noise would be similar to existing noise produced by surrounding residential uses. As analyzed in the IS/MND, noise produced by vehicles in the parking area and traffic would be less than significant to nearby residential uses due to distance. On-site mechanical noise would be mitigated by the Project design, which includes 30-inch tall parapet walls on all rooftops, reducing noise produced by HVAC equipment by 10 dBA. The IS/MND analysis determined the HVAC equipment noise would be less than 60 dBA, consistent with the noise threshold identified in SF Table 3.

Based on these observations, the Project is consistent with SF Policy 38.

## ***PUBLIC FACILITIES AND SERVICES CHAPTER***

**PF Policy 5 Potable Water.** Ensure adequate water supply for new and existing development.

**PF Policy 6 Water Conservation.** Develop and implement water conservation programs in Novato.

*Facts in Support:* The Project was referred to the North Marin Water District (NMWD), which would provide potable and recycled water service to the Project for review and comment. The existing recycled water distribution main located at State Access Road must be extended to the Project to serve new landscaping. The Project may connect to the District's potable and recycled water systems by executing an agreement for service, paying connection fees, and installing lateral service lines. NMWD also requested that above-ground reduced pressure principal backflow prevention devices at the water meters be installed. The Project must also comply with the District's water conservation ordinance, Regulation No. 15, which addresses plumbing fixtures, landscaping species selection, and irrigation features intended to reduce potable water consumption.

NMWD's requested improvements are included in the Precise Development Plan as conditions of approval applicable to the Project. Compliance with these conditions of approval will be reviewed through the local building permit review process.

Based on the observations above, the Project is considered to be consistent with PF Policies 5 and 6.

## ***COMMUNITY IDENTITY CHAPTER***

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

*Facts in Support:* Please see the discussion for Housing Policies 3.2 and 3.3, above.

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

*Facts in Support:* The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. The project is required to connect into the Water District's recycled water line for landscape irrigation.

Based on the observations above, the Project is consistent with CI Policy 7.

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

*Facts in Support:* All existing overhead utilities at the Project Site will be placed underground consistent with the requirements of Chapter V of the Novato Municipal Code. Therefore, the Project is consistent with CI Policy 9.

**CI Policy 12 Parking Standards.** Reduce the visibility of parking facilities and the amount of land necessary for them to maximum extent feasible.

*Facts in Support:* The Project has been designed to include a two-garage for each residential unit. Additionally, the majority of the on-site uncovered parking stalls are located at the rear of the site. A five-foot wide landscape planter and fencing would be located between the parking and the rear property line to screen parked vehicles from the property to the north. The parking would not be visible from State Access Road due to distance and buildings/landscaping screening. Parking is proposed along State Access Road that is open to both residents and guest of the Project, as well as to the general public to utilize the public park portion of the Project. On-street parking will utilize the existing right of way width of State Access Road, and street tree planting is proposed adjacent to these parking stalls. Therefore, the Project is consistent with CI Policy 12.

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

*Facts in Support:* The Project provides a variety of outdoor use and landscape spaces for residents, including a private balcony for each unit, a private patio for the majority of units, and approximately 28,000 square feet of common open space. Common open space amenities include a meditation garden, botanical garden, outdoor cooking and seating areas, picnic tables, fire tables, and landscaping. Additionally, the Project includes a 1.1-acre park on the Project Site that will be available to residents of Hamilton Village, and will be open to the general public. Park amenities include a community garden, bocce ball courts, children's play area, landscaping, and safety fencing. The total amount of open space per unit exceeds the 300-square feet of open space per unit required by the Novato Municipal Code for multi-family projects.

Based on these observations, the Project provides adequate landscaped, open space areas consistent with CI Policy 14.

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

*Facts in Support:* Please refer to the response to TR Policy 22, above.

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

*Facts in Support:* Rincon Consultants completed a search of the California Historical Resources Information System (CHRIS) at the Northwestern Information Center (NWIC) located at Sonoma State University on January 3, 2020. The NWIC identified 54 previously cultural resources studies previously performed within 0.5-mile of the Project site, as well as five (5) cultural resources



recorded within 0.5-mile of the Project site. Additionally, the Project Site previously contained the commissary building for Hamilton Army Airfield. The Hamilton Army Airfield Discontinuous Historic District, located .05-mile east of the project site is recorded as an National Register of Historic Place (NRHP) -listed historic district, however the district boundary does not include the Project Site. Furthermore, the commissary building was demolished in 2010.

The Native American Heritage Commission (NAHC) informed Rincon that the Sacred Lands File check was completed with positive results for a site within the project vicinity, but not the Project Site itself. The NAHC provided Rincon with a list of Native American tribes culturally affiliated with the nearby sacred lands site. However, the Federated Indians of Graton Rancheria (FIGR) did not indicate the presence of any Native American Resources within the Project Site. Additionally, an archeological field survey was conducted by a qualified Rincon archaeologist on January 17, 2020. No archeological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) and Assembly Bill 52 applies to the Project. 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 November 14, 2019, and by the Guidiville Band of Pomo Indians on November 15, 2019. The City of Novato did not receive a request for consultation from either group.

The potential exists for encountering previously undiscovered archeological resources during construction and earth-moving activities associated with the Project. To ensure that impacts to cultural resources remain less-than-significant, the IS/MND prepared for the Project provides Mitigation Measures CUL-1 and TCR-1 requiring the following:

**Mitigation Measure CUL-1:** If cultural resources are encountered during ground-disturbing activities associated with construction of the Project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans. Implementation of Mitigation Measures CUL-1 would reduce potential impacts to unanticipated archeological resources to less than significant.

**Mitigation Measure TCR-1:** If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American

groups. The plan would include avoidance of the resource or, if avoidance of the resource is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative. 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 consistent with CI Policy 30.

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

*Facts in Support:* The Applicant has indicated that public art in compliance with the City's Art Program, Division 19.21 of the Zoning Ordinance, will be provided as part of the Project. Staff is recommending a condition of approval that the Applicant fulfill the requirements of the Art Program prior to issuance of a building permit for the Project. Based on the observations above, the Project is consistent with CI Policy 32.

## Exhibit C

### HAMILTON VILLAGE CONDITIONS OF APPROVAL

Hamilton Village is subject to complying with the following conditions of approval, which shall be implemented by the Applicant. Use of the term “Applicant” in this instance is inclusive of any and all successors in interest to the Project.

#### Initial Study/Mitigated Negative Declaration, Mitigation Measures:

1. Mitigation Measure BIO-1: To avoid impacts to nesting birds and other special-status bird species, ground disturbing activities during construction of the project shall be limited to the period between September 1 and January 31 (i.e., outside the nesting season), if feasible. If initial site disturbance, grading, and vegetation removal cannot be conducted during this period, a qualified biologist shall conduct a pre-construction survey for active nests in and around the project site, no more than two weeks prior to any construction activities. The survey shall include the project site and other such habitat within 500 feet of the project site.

If active nests are identified, the extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided.

If active nests are identified, species-specific exclusion buffers shall be determined by the biologist (i.e., 500 feet for raptor nests), and construction timing and location adjusted accordingly. The buffer shall be adhered to until the adults and young no longer rely on the nest site, as determined by the biologist. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. An on-site biological monitor shall be present during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (i.e., outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities.

2. Mitigation Measure CUL-1: If cultural resources are encountered during ground-disturbing activities associated with construction of the project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans.

3. Mitigation Measure GEO-1: The Geotechnical Investigation produced by Quantum Geotechnical, Inc. provides recommendations that would ensure the project is suitable from a geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of approval and shall be implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: Grading, Surface and Subsurface Drainage, Bio-filtration Facilities, Foundations, Miscellaneous Concrete Flatwork, Retaining Walls and Foundations, Pavement Areas, Utility Trenches, and project review and construction monitoring.
4. Mitigation Measure HAZ-1: Prior to the beginning of construction, a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.
5. Mitigation Measure HAZ-2: Prior to issuance of a building, grading, or demolition permit, the Applicant shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.

The plan shall:

- Provide that the construction contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, during grading, excavation, demolition and construction activities. If during such activities the contractor discovers an unknown waste or debris that is believed to involve hazardous waste and/or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant and remove workers and any members of the public at the Project site from the immediate area of the discovery;
- Describe the monitoring protocols to be implemented during grading and excavation activities to observe any potential indicators of soil contamination, such as soil staining and odors;
- Identify appropriate measures to be followed if contaminants or unknown underground environmental features (e.g., storage tank) or debris are encountered during grading, excavation, and site demolition work to protect workers and the public;
- Prescribe sampling protocols to properly characterize suspected contaminants;

- Specify contaminant thresholds at which regulatory agency (e.g., Marin County Certified Uniform Program Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control) notification is required;
- Incorporate all mitigation measures/conditions of approval addressing dust control;
- Identify personnel to be notified and provide emergency contact information; and
- Prescribe handling protocols for suspected contaminants and appropriate disposal procedures.

The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval prior to the issuance of any building, grading, or demolition permit. The plan shall be peer reviewed by a third-party contractor hired by the City at the Applicant's expense to confirm the plan is acceptable.

6. Mitigation Measure HAZ-3: During construction, the Applicant shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the project. Basic measures shall include, at a minimum:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the name and telephone number of the contractor's representative to contact regarding dust complaints. This person shall respond and take corrective action within two hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Additional measures shall include, at a minimum:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
  - The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
7. Mitigation Measure HAZ-4: The Applicant shall design and implement engineering measures or institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City's Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the Applicant's expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.

The Applicant and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department.

The efficacy of the measures and controls shall be confirmed and certified by a qualified professional pursuant to the construction quality assurance/quality control testing guidance of the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011).

8. Mitigation Measure TRA-1: The Applicant shall ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the Applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements. Such requirements shall be incorporated into the Covenants, Conditions and Restrictions (CC&Rs) for the Project.
9. Mitigation Measure TRA-2: The Applicant shall ensure that on-street parking within the project site driveway shall be prohibited and marked by red curbs. Prior to project construction, the Applicant shall submit to the City Planning Division plans showing this design. Ongoing maintenance of said parking restriction and red curbing shall be included in the CC&Rs for the Project.

10. Mitigation Measure TRC-1: If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared in accordance with state guidelines and in consultation with Native American groups. The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
11. Mitigation Measure USS-1: Prior to construction activities commencing, the Applicant shall pay a fair share fee to the NSD for the necessary capacity improvement of upsizing 1,180 feet of pipe from 15-inches in diameter to 18-inches in diameter pursuant to the District's adopted Collection System Master Plan.

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

12. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permit(s), certificate(s) of occupancy or other entitlements.
13. The Applicant shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code Section 9-20.
14. Prior to or concurrent with the recordation of the Final Map, the Applicant shall execute and record an affordable housing agreement and deed restriction in the City's standard form and subject to the approval of the City Attorney. Said agreement will provide for the reservation of a total of 15 residential condominium units, for-sale to qualifying buyers in the low (8 units reserved) and moderate (7 units reserved) income categories consistent with Novato Zoning Ordinance Section 19.24. The affordable housing agreement shall include the City's standard covenant and other affordability agreements for buyers of the affordable units to restrict the unit resales. The affordable housing agreement shall include a requirement for the Project to submit a management plan and Management Agreement subject to the review and approval of the Community Development Director and the City Attorney.
15. The Applicant shall grant a public access easement to the 1.10-acre private park included in the Project to permit public use as offered by the Applicant. The easement shall allow public use in perpetuity. Said easement shall be executed and recorded prior to or concurrent with the recordation of the Final Map for the Project. Said easement shall be subject to review and approval by City Attorney, Community Development Director, and Public Works Director.

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

16. The applicant shall obtain a building permit issued by the City of Novato Building Division prior to commencement of any construction of any structures.
17. The project shall comply with all the requirements of NMC 19.22.070 – *Noise and Construction Hours*.

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

### **General Conditions of Approval**

18. The Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the Uniform Construction Standards All Cities and County of Marin, unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
19. The Applicant shall be responsible for all City plan check, map check and inspection costs. The Applicant shall enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.
20. The Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall show all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, communication lines, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. No Encroachment Permit shall be issued prior to the approval of the Improvement Plans and approval and recordation of the Improvement Agreement as set forth herein.
21. All existing and proposed electrical and communications lines, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be subject to the approval of the appropriate utility company.



22. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. This condition shall be satisfied prior to approval of the Improvement Plans. No new wells or septic systems are permitted on the subject property.
23. A detailed design level Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The Improvement Plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

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

24. A drainage study prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations, narrative and exhibits to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. This study shall include a hydraulic grade line analysis of the existing downstream storm drain. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall also include an analysis of the 100-year storm overland flow.
25. The Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles, treatment vaults, and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans. Mechanical treatment measures shall be consistent with those shown on the vesting tentative map plans.
26. Prior to the approval of the Improvement Plans and prior to the issuance of a grading, building or demolition permit, the Applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Novato Fire Protection District, Department of Fish and Game and U.S. Army Corp of Engineers. Proof of approval and/or clearances, including but not limited to, North Marin Water District, and the Novato Sanitary District shall be submitted

to the City prior to approval of the Improvement Plans. A complete set of Improvement Plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.

27. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.
28. Prior to City approval of the Improvement Plans, the Applicant shall obtain signatures from representatives of the Novato Fire Protection District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
29. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
30. All outside garbage facilities shall be designed to be fully covered with a roof meeting Marin County's storm water pollution prevention best management practices.
31. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the improvement plans.
32. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
33. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

**Special Conditions of Approval:**

34. The Applicant shall submit Improvement Plans for the entire development, including both onsite and offsite improvements, prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Vesting Tentative Map of Hamilton Village (9 sheets) prepared by CSW/Stuber-Stroeh Engineering Group last revised March 31, 2020 (referred to herein as Tentative Map). The onsite and offsite improvement plans may be submitted as separate packages.
35. All on-site (defined as within the subdivision boundaries) streets, parking lots, sidewalks, streetlights, private sanitary sewer facilities, storm drain facility, stormwater quality facilities and landscaping shall be privately owned and maintained, except for the public storm drain within Public Drainage Easement along the east side of the site.

36. The Applicant shall construct all of the Public Improvements generally as shown on the Tentative Map and more specifically described below.
- a. Widen State Access Road along the site frontage to provide on-street parking as shown on Sheet C3.0 of the Tentative Map. The maximum cross-slope of the new parking lane shall be 4%. If necessary, reconstruct part of the existing roadway to meet this requirement. Construct curb, gutter and sidewalk along the site frontage and extending west along State Access connecting to the existing sidewalk at Nave Drive. Install streetlights along the site frontage and extending west to Nave Drive.
  - b. Restripe State Access Road from the east line of the site to Nave Drive to provide the vehicle lanes and Class 2 bicycle lanes as shown on Sheet C3.0 of the Tentative Map. The final widths of these lanes shall be as approved by the City Engineer. Re-stripe the turn pockets approaching Nave Drive. Provide bicycle lane markings and signage.
  - c. Extend the storm drain in State Access Road west and provide a catch basin at the upstream side of the entrance curb return.
37. The Applicant shall construct all of the private improvements generally as shown on the Tentative Map and more specifically described below.
- i. Install onsite storm drain facilities in accordance with the final approved drainage report.
  - ii. Construct the permanent on-site and offsite private post-construction stormwater treatment facilities in accordance with the approved final SWCP. As shown on the Vesting Tentative Map, onsite mechanical treatment shall be permitted to satisfy BASMAA requirements.
  - iii. Construct all onsite curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities in accordance with the approved Improvement Plans.

**Final Map Conditions of Approval:**

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

information shown on the closure calculation printout. A current title report (within past 30 days) shall be submitted at the time of initial Final Map submittal.

39. The Applicant shall transmit by certified mail a copy of the conditionally approved Tentative Map together with a copy of Section 66436 of the State Subdivision Map Act to each public entity or public utility that is an easement holder of record.
40. The Final Map will not be approved prior to approval of the Improvement Plans, Subdivision Improvement Agreement, Affordable Housing Agreement, Stormwater Control Agreement.
41. On the Final Map, the Applicant shall indicate that all common parcels are or will be dedicated to the Homeowner's Association
42. On the Final Map, the Applicant shall dedicate the public utility easements and emergency vehicle access easements over the private roadway areas as shown on the Tentative Map. The waterline easements and sanitary sewer easements shall be created by separate instrument.
43. Submit legal descriptions and plats for the requested access easement and emergency vehicle access easement over the HUD Parcel (APN 159-970-07).
44. Prior to approval of the Final Map, the Applicant shall enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all onsite and offsite improvements, including but not limited to, grading and construction of any curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities, to the reasonable satisfaction of the City Engineer. The Improvement Agreement shall be secured to guarantee the faithful performance of the agreement in the amount of 100% of the estimated cost of the improvements and for the payment of labor and materials in the amount of 100% of the estimated cost of the improvements in accordance with the Subdivision Map Act. A final certificate of occupancy shall not be issued for any structure until required improvements are completed to the satisfaction of the City Engineer.
45. Prior to the approval of the Final Map, the Applicant shall submit Covenants, Conditions and Restrictions (CC&Rs) for review and approval of the City Engineer, City Attorney and Community Development Director. The approved CC&Rs shall rerecorded concurrent with the recordation of the Final Map. As part of the CC&Rs, the Applicant shall establish a Homeowner's Association (HOA) in accordance with State law, which HOA shall be responsible for the long-term and ongoing maintenance of all common onsite and offsite improvements. Specifically, the HOA will be responsible for the long-term and ongoing maintenance of the park, all streets, parking lots, sidewalks, streetlights, sanitary sewer facilities, storm drain facilities, except for the public storm drain within Public Drainage Easement along the east side of the site, stormwater quality facilities, common garbage facilities if any, landscaping and all other improvements within the HOA owned common parcels, easements, and the offsite curb, gutter, sidewalk, and post-construction stormwater

treatment facilities and landscaping within the public right-of-way along the State Access Road frontage in accordance with the required License Agreement and Stormwater Operations and Maintenance Agreement. The CC&R's shall also include a provision restricting the use of garages for the parking of the number of vehicles for which the garage was designed.

46.

The CC&Rs shall include a provision granting to the City enforcement authority, but not an obligation over the HOA's maintenance obligations and the obligation to review and approve proposed changes or amendments to the CC&R's. The CC&Rs shall also require professional management of the HOA for the first two (2) years after issuance of the final certificate of occupancy for a unit in the Project, and shall require the HOA to create and maintain a separate maintenance reserve fund as required by the California Department of Real Estate..

47. Prior to recordation of the Final Map, the Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs. Once approved and prior to recordation of the Final Map, the Applicant shall enter into a Stormwater Operations and Maintenance Agreement (SOMA) with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices. Such SOMA shall be recorded concurrent with the Final Map and shall be referenced in the CC&Rs with ongoing requirements to be assumed by the HOA.

48. Prior to recordation of the Final Map, the Applicant shall enter into a license agreement with the City to authorize maintenance of the post-construction stormwater treatment facilities and landscaping within the State Access Road right-of-way.

#### **Construction Conditions of Approval:**

49. The Applicant shall install all construction stormwater pollution prevention measures as indicated in the SWPPP consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be engaged by the Applicant at the Applicant's expense. Such SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The CC&Rs and SWCA shall require that the HOA continue to engage such qualified SWPPP Practitioner on an ongoing basis. The Applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.

50. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through

Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall advise all contractors of the construction and inspection hours. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.

51. A City of Novato Encroachment Permit shall be obtained by the Applicant or contractor prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
52. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" in diameter and larger shall be professionally televised by the Applicant and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired by the Applicant to the satisfaction of the City Engineer.
53. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
54. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways via wet-sweeping or an equivalent process that does not produce dust. Dry-sweeping shall be prohibited."
55. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed, and service connections stubbed out behind the sidewalk by the Applicant. Public utilities, Cable TV, sanitary sewers and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
56. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted by the Applicant for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
57. Utilities to be abandoned shall be removed or completely filled with suitable material and

capped to the approval of the applicable utility agency and to the approval of the City Engineer.

58. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
59. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

**Occupancy Conditions of Approval:**

60. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
61. Prior to occupancy of any building, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.
62. Prior to occupancy of any building, the Applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

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

63. An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation.
64. Fire hydrants capable of supplying 1,500 gallons per minute minimum will be required to be installed so that spacing between hydrants does not exceed 300 feet as shown on the approved plans. The fire hydrants shall be spotted by the Fire Marshal and contain at least one 4½- and one 2½ -inch outlets. Installation shall conform to the specifications of the North Marin Water District.
65. Fire hydrants shall be installed in accordance with the applicable standard, tested, and operational prior to framing.
66. Fire hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a blue reflective roadway marker installed per NFD Standards.

67. Proposed roads and driveways shall not exceed 18% grade.
68. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
69. Roadways shall be not less than 20-feet wide capable of accommodating a 60,000 gross vehicle weight (GVW) and driveways not less than 16-feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.
70. Consistent with the vesting tentative map, a second means of emergency ingress and egress for fire apparatus shall be installed capable of accommodating Novato Fire District apparatus and conform to NFD standard #210.
71. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
72. An approved fire gate shall be located by the Fire Marshal and installed conforming to NFD Standard #221.
73. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
74. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
75. A building and 'Floor Plan Directory' shall be installed in all locations required by the Fire Marshal, and conforming to Novato Fire Protection Standard #205A.
76. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.

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

77. The subject property is within a Special Assessment District established to recover the capacity improvement cost of the sanitary sewer. Payment of the assessment fee and connection charges will be required prior to the project making connection to the public sewer.
78. The Applicant shall pay the District's current connection fees at time of connection.

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



79. The existing water recycled water distribution main located at State Access Road must be extended to the project. The onsite facilities shall be designed to use recycled water for irrigation and shall be designed to prevent discharge onto areas not under control of the Applicant.
80. The Applicant shall apply to the District, enter into an agreement with the District, and complete financial arrangements for the new facilities. Occupancy approval for each building shall not be granted until water service installation and sign off is complete for that building.
81. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter may be required in accordance with the District's Regulation 6 and California Department of Health Regulations (Title 17). If required, upon installation, an inspection report (device testing) must be completed and returned to the District prior to the commencement of business activities.
82. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
83. City of Novato Indemnity and Time Limitations

As to the Tentative Map Entitlement

- a. In accordance with Government Code Section 66474.9, 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 approval at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the City, and/or parties initiating or bringing such action.
- b. In the event that a claim, action, or proceeding described 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 if both of the following occur: The City bears its own attorney's fees and costs; and, the City defends the action in good faith. 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 subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider. 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.

- c. 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.
- 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.

#### As to All of the Other Entitlements

- 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 decision(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 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 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.
- g. 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 decision(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 City, and/or parties initiating or bringing such action

PLANNING COMMISSION RESOLUTION

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

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE A VESTING TENTATIVE SUBDIVISION MAP FOR HAMILTON VILLAGE, CREATING 75 RESIDENTIAL CONDOMINIUM UNITS AND A COMMON PARCEL AT 802 STATE ROAD, APN 157-970-03, AND PROVIDING A GENERAL PLAN CONSISTENCY REPORT REGARDING REQUESTS FOR A RECIPROCAL EMERGENCY ACCESS EASEMENT, AND PRIVATE ACCESS EASEMENT OVER CITY OWNED PARCELS IDENTIFIED AS APNS 157-970-05, -06, AND -07 TO SERVE HAMILTON VILLAGE

WHEREAS, the City of Novato (“City”) received applications from City Ventures (“Applicant”) for a general plan amendment, master plan amendment, precise development plan, design review, vesting tentative map, and a request to grant easements for the proposed Hamilton Village project (“Project”) proposed to be located at 802 State Access Road, APN 157-970-03 (“Project Site”); and

WHEREAS, the vesting tentative subdivision map application (P2020-012) proposes to create 75 residential condominium units and a common area parcel at the Project Site. Additionally, the easement request proposes a reciprocal emergency access easement and a private access easement over certain portions of adjoining city-owned parcels identified as Assessor’s Parcel Nos. 157-970-05, -06, and -07; and

WHEREAS, the City determined that the Project is subject to the environmental review requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the project design recommended for approval by the Design Review Commission at its public hearing of December 18, 2019 served as the Project to be analyzed pursuant to CEQA; and

WHEREAS an Initial Study/Mitigated Negative Declaration (“IS/MND”) was prepared in compliance with the provisions of California Environmental Quality Act (“CEQA”), and the City of Novato Environmental Review Guidelines. The Initial Study considered the project site and its setting and the potential effects of assigning the Medium Density Multiple Family Residential (R10) land use designation to the Project site, and the effect of adopting a master plan amendment and PDP to accommodate the Project, including the subdivision of the property and the granting of the requested easements, and the construction and operation of the Project itself on the basis of the technical subjects (e.g., aesthetics, air quality, biological resources, etc.) included in the environmental checklist form provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project could result in potentially significant impacts to the environment in the CEQA topical areas of: Biological Resources, Cultural

Resources, Geology/Soils, Hazards/Hazardous Materials, Transportation, Tribal Cultural Resources, and Utilities/Service Systems. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to less-than-significant levels; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with CEQA, the CEQA guidelines as promulgated by the State Secretary of Resources, and the procedures for review set forth in the City of Novato Environmental Review Guidelines, finding that although the Project could have a significant effect on the environment, there will not be a significant effect in this case due to the implementation of the mitigation measures identified in the IS/MND; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did recommend the City Council adopt the IS/MND for the Project and did consider the IS/MND prior to taking action on the Project; and

WHEREAS, by separate resolutions adopted prior hereto, the Planning Commission did recommend the City Council approve the proposed amendment to the Novato General Plan (Land Use Map LU1), the master plan amendments, and the precise development plan/design review for the Project; and

WHEREAS on October 2, 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, on November 6, 2019, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, height/massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on December 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, height/massing, and conceptual architecture and landscaping; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed IS/MND and the Project were sent to all affected property owners within 600-feet of the boundaries of the Project site, 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 a 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 vesting tentative map and grant of easements 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 on the Project 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 and the Project (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) Original Master Plan (Master Plan for the Hamilton Field DODHF Property) and its related EIR (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND and the Project (7) all documentary and oral evidence received at public workshops, meetings, and hearings regarding the IS/MND and the Project (8) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

**Section 3. Vesting Tentative Map Findings**

The Planning Commission hereby makes the following findings as required by Section 9-7002.e.2 of the Novato Municipal Code with the respect to the vesting tentative map (VTM):

1. The proposed subdivision, together with the provisions for its design and improvement is consistent with the Novato General Plan and any specific plans.
2. The proposal is consistent with the Zoning Ordinance and any master plan or precise development plan adopted pursuant thereto.

**Facts in Support (*Findings 1 and 2*):** The Project and its accompanying VTM have been reviewed for consistency with applicable General Plan policies as documented in *Exhibit A*, attached hereto and incorporated herein by reference. The VTM has also been reviewed for consistency with Novato Municipal Code (NMC) Chapter 19, *Zoning*, Chapter 5, *Development Standards*, and Chapter 9, *Land Subdivision*. Chapter 5 includes development standards for condominiums, easements, sewage disposal, solid waste disposal and recycling, street design, utilities, and water conveyance. Chapter 9 includes regulations and standards for access, park dedication, improvement plan requirements, and minimum tentative map submittal requirements.

The Project Site is assigned the Planned District (PD) zoning district classification. Chapter 19, *Zoning*, includes requirements for processing of projects proposed on sites zoned PD. A master plan is required to establish the land uses and development intensities permitted on a site zoned

PD. In this instance, the Project Site is subject to the provisions of a previously adopted master plan, the *Master Plan for the Hamilton Field Department of Defense Housing Facility (“DODHF”) Property* (“Master Plan”). The PD zoning classification also requires the approval of a precise development plan to establish specific design and operation components of a project. The master plan and precise development plan become the effective zoning for project sites assigned the PD zoning district classification. Deviations from the uniform standards of Chapter 19 are allowed where doing so would better address unique site constraints or would result in superior project design.

The Applicant has submitted sufficient evidence (VTM plan package) that the VTM complies with these requirements, and the project has been appropriately conditioned to ensure that development will occur in conformance with these subdivision requirements. Based on these observations, the VTM is consistent with Findings 1 and 2.

3. The effect of the approval on the housing needs of the region have been considered and balanced against the public service needs of the residents of Novato and available fiscal and environmental resources.

**Facts in Support:** The Project includes 75 for-sale residential condominium units. The addition of 75 new residential units would expand Novato’s housing stock and meet unmet demand for housing units in the City. The project includes 15 affordable housing units. These units will incrementally address the need for a variety of housing types in Novato, as well as assist the City in meeting its Regional Housing Needs Allocation (RHNA) as determined by the Association of Bay Area Governments (ABAG).

The service demands of the Project were considered by the Novato Public Works Department, Novato Sanitary District, North Marin Water District, Novato Fire Protection District and Novato Police Department. These entities are responsible for ensuring the provision of stormwater control, adequate infrastructure and service for water, sewer, emergency medical/fire, and public safety. These agencies reviewed the project and some provided conditions of approval as necessary to ensure the Project provides adequate infrastructure and safety improvements such as stormwater control measures and fire suppression features. These conditions of approval are adopted for the Project and implemented through the construction design plans and construction phases of the Project.

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

**Facts in Support:** The Project has been designed to the extent feasible, to provide for passive heating and cooling. The buildings are designed to include rooftop solar arrays for each unit. The Project also includes the planting of over 120 trees on the site to provide shade in the warmer months.

#### **Section 4. Vesting Tentative Map Recommendation**

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the Vesting Tentative Map (VTM) (seven sheets),

prepared by CSW/Stuber-Stroeh Engineering Group, Inc. dated March 31, 2020, based on the findings set forth herein and subject to the following conditions of approval set forth below.

**Section 5. General Plan Consistency Report – Grant of Easements**

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission hereby reports to the City Council, pursuant to California Government Code Section 65402 that the location, purpose and extent of granting an emergency vehicle access easement (EVA) connecting the Project Site to Hamilton Parkway through the City-owned parcels identified as APNs 157-970-05, -06, and -07, and granting a private access easement over a limited area of APN 157-970-07 to allow encroachment of a portion of a drive aisle serving the Project is consistent with the Novato General Plan based on the following findings:

- a. The requested emergency vehicle access easement is necessary to meet the access needs of the Novato Fire Protection District to serve the Project, future development of the City’s HUD parcel (APN 157-970-07), and Homeward Bound of Marin’s existing New Beginnings Center (APN 157-970-05) and Next Key Center (157-970-06) both of which lie on lands leased from the City;
- b. The requested private access easement would allow a portion of a drive aisle within the Project to encroach on APN 157-970-07 at the location where the EVA easement noted above connects with the Project Site. The encroachment would allow sufficient drive aisle width to not only serve project traffic, but also support adequate turning radii for the movement of emergency equipment within the Project and to and from the EVA.

The noted benefits of granting the easements are hereby found to be consistent with the General Plan policies and supporting statements of fact provided in *Exhibit A*, attached hereto and incorporated herein by reference.

**Section 6. Conditions of Approval**

1. The Project shall comply with the Conditions of Approval set forth in *Exhibit B* attached hereto and incorporated herein by reference.
2. Approval of the Vesting Tentative Map shall not be effective until the effective date of the General Plan Amendment and Master Plan Amendment adopted prior hereto by separate resolution and ordinance, respectively.
3. The Vesting Tentative Map approval shall expire two years from the date of approval unless a Final Parcel Map is recorded to the satisfaction of the City Engineer or an extension is granted pursuant to the Novato Municipal Code and/or State Subdivision Map Act.
4. Indemnity and Time Limitations
  - a. In accordance with Government Code Section 66474.9, 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 approval at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the City, and/or parties initiating or bringing such action.

- b. In the event that a claim, action, or proceeding described 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 if both of the following occur: The City bears its own attorney's fees and costs; and, the City defends the action in good faith. 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 subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider. 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.
- c. 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.
- 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

Exhibit B – Conditions of Approval

Reference: P2020-012

**EXHIBIT A**  
**HAMILTON VILLAGE**  
**NOVATO GENERAL PLAN**  
**CONSISTENCY FINDINGS**

**1996 NOVATO GENERAL PLAN**

***LAND USE CHAPTER***

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

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

*Facts in Support (LU Policies 1 and 2):* The Project includes a general plan amendment to change the land use designation of the site from Community Facilities (CF) to Medium Density Multiple Family Residential (R10). The Project consists of constructing and operating residential condominiums consistent with the R10 land use designation. Upon approval of the requested project entitlements, including the noted general plan amendment, the Project will be consistent with the R10 land use designation and with all other applicable general plan policies, as described in further detail below.

The R10 land use designation permits multi-family residential uses, including condominiums and townhomes, within a density range of 10.1 to 20.0 dwelling units per acre. The Project is consistent with this land use designation since it involves the construction of residential condominiums at a density of approximately 15.9 units per acre.

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

**LU Policy 7 Growth Management.** Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

*Facts in Support:* The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water,

sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the project. All other utilities including electricity, gas, cable, internet, and telephone service are located in the State Access Road right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis. However, the Novato Sanitary District (NSD) indicated that a segment of its existing sewer trunk main serving the Project will have insufficient capacity in the future to serve cumulative development in the project area. Mitigation Measure USS-1, adopted as a condition of approval of the Project, requires the Applicant to pay a fee to NSD to cover the Project's fair share contribution for future capacity improvements to serve the project area pursuant to the NSD's adopted Collection System Master Plan.

Based on the analysis in the IS/MND prepared for the project, incorporated herein by reference, and the observations above, the Project is consistent LU Policy 7.

## ***TRANSPORTATION CHAPTER***

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

*Facts in Support:* The CEQA MND/IS prepared for the Project analyzed the potential for the Project to create safety hazards related to roadway operations. This analysis considered the location and design of frontage improvements, the driveway serving the Project, and the proximity of nearby driveways serving Lanham Village and Novato Village senior apartments. The analysis determined the driveways serving the Project have been designed to provide adequate site distance allowing drivers to enter and exit the Project Site with unobstructed views onto State Access Road. To ensure that adequate visibility along the driveway serving the Project is maintained, the IS/MND includes Mitigation Measures TRA-1. Mitigation Measure TRA-1 requires landscaping along the project driveway not to exceed a height of 3-feet to ensure visibility for vehicles entering and exiting the driveway.

The IS/MND also includes Mitigation Measure TRA-2 to ensure that emergency vehicles can access the Project Site through the Project drive aisles. Mitigation Measure TRA-2 requires the drive aisle curbs to be painted red to prohibit vehicle parking with the drive aisle area to ensure adequate emergency vehicle ingress and egress.

The Project includes a request for a private access easement over small segment of city-owned property identified as APN 157-970-07 located at northeast corner of the Project Site at the entrance to the reciprocal emergency vehicle access easement. The private access easement would allow widening of a drive aisle in the Project to accommodate project related traffic, as well as

accommodating the turning movements of emergency vehicles serving the Project and entering and exiting the EVA. This easement will ensure adequate on-site circulation, as well as sufficient emergency access.

Based on the findings of the traffic analysis presented in the IS/MND, the Project is consistent with TR Policy 11.

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

*Facts in Support:* The Applicant is responsible for construction of full street improvements along the Project Site's frontage with State Access Road as indicated on the Project plans. These improvements would consist of curb, gutter, sidewalk, and any work necessary to correct or improve the existing paved sections of State Access Road within the limits of the Project Site's frontage. The Project's plans delineate the location and general design of the frontage improvements required for the Project, including a new sidewalk segment between Novato Village senior apartments to the south and Nave Drive to the west. The proposed sidewalk improvement will offer safer and more convenient pedestrian access to existing residents in the area and new residents of the Project. Accordingly, the Project is consistent with TR Policy 22.

## ***HOUSING CHAPTER***

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

*Facts in Support:* The Project Site is an undeveloped and partially paved lot. Novato Village senior apartments are located to the east, Christmas Tree Hill (undeveloped rock outcropping) is immediately west of the Site, Lanham Village (residential condominiums) is to the south, and former military warehouses and Homeward Bound of Marin's homeless services facilities are located to the north.

The Project's buildings and landscaping have been designed in a manner consistent with of the neighboring Novato Village senior apartments and that of the greater Hamilton area, including the use of Spanish themed architecture and the creation of internal courtyards, pedestrian paths, and a central outdoor space. The Project's building height (40-feet) would be taller than nearby development, however architectural elements including varying wall planes and recesses break up the façade of the buildings and create visual interest to reduce apparent height, bulk and mass of the Project. These design elements avoid buildings with a tall, flat appearance. Given the 80-foot right-of-way of State Access Road, and existing mature trees located along the south side of the road, Hamilton Village should not feel imposing to residents in the one- and two-story residences across the street in Lanham Village. Further, the Project is separated from Novato Village (30-foot building height) by approximately 20-feet, which is an acceptable distance to allow the Project's multi-story development.

The Applicant has designed the Project, including landscaping and tree planting at the perimeter of the site, in a manner intended to soften the appearance of the structures from surrounding areas

by breaking up wall planes with interesting architecture and strategically diffusing views of buildings with new tree plantings. In addition, the Project creates a desirable presence of building facades and landscaping at the edge of State Access Road that would improve the appearance and experience of travelling along this roadway. Based on the design features described above, the project is consistent with HO Policy 3.2.

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

- a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story stepbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.
- b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.
- c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.
- d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

*Facts in Support:* The Project includes various design elements consistent with the design principals of Housing Policy 3.3, including:

- Building materials consisting of concrete tile roofing, decorative foam accent gables, stucco exterior, pot shelf and window accents, shutters, and roll-up garage doors, providing visual interest and building articulation.
- Articulated elevations featuring wall projections and recesses, as well as varying roof styles and patterns, and separations between buildings which reduce the apparent height, bulk and mass of the buildings.
- The reduced front setback along State Access Road which activates the streetscape and creates a sense of community by conveying more of a neighborhood street feeling. Breaks are included between the buildings located along the State Access Road frontage, thereby reducing perception of mass from the street.

- A central entryway is oriented toward State Access Road, which leads directly into a large central open space area, creating a focal point, and reducing the apparent height, bulk and mass of buildings.
- Building facades are not dominated by garages, and balconies and/or trellis structures are incorporated above the garages on the majority of buildings to offset the prominence of the garage door. Placement of the on-site uncovered parking stalls are located towards the rear of the site and are screened from view.

**HO Policy 4.2 Renewable Energy Technologies.** Promote the use of sustainable and/or renewable materials and energy technologies (such as solar and wind) in new and rehabilitated housing when possible.

*Facts in Support:* The Project includes a 2-kilowatt photovoltaic system for each residential unit and is therefore consistent with HO Policy 4.2.

**HO Policy 6.1 Transit-Oriented Development.** Encourage Multi-family Development within an easy walking distance to transit access points – a station or location served by one or more transit lines – where reduced automobile usage and parking requirements are possible. Maximize the use of these limited land resource sites to reduce overall energy, land, water and other costs.

*Facts in Support:* The Project would develop 75 multi-family residential units, including 15 affordable units, within one-half mile of the Hamilton SMART rail station and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 6.1

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

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

*Facts in Support:* The Project would provide 75-units of ownership, multi-family housing featuring small and large units located within one-half mile of the Hamilton SMART rail station

and transit stops operated by Golden Gate Transit and Marin Transit. The Project is therefore consistent with HO Policy 7.2

**HO Policy 9.1 Flexibility and Incentives in Development Standards.** The City will seek ways to promote housing, such as increased FAR, height limits and density, and reduced parking, based on the location and design of the development, compatibility with adjacent uses, and the type, size, and income levels of the occupants of the housing. The purpose of this policy is to recognize that smaller, more affordable housing located near transit, jobs and services will generate fewer trips, require less parking, and have fewer area-wide impacts.

*Facts in Support:* The Project includes requests to allow increased building height, reduced parking, and flexibility on setbacks to accommodate 75 multi-family units, including 15 affordable units. These requests are based on the need maintain the proposed unit count to support the provision of the noted affordable units, providing generous common outdoor facilities for residents, and constructing an approximately 1-acre private park available for public use. Therefore the Project is consistent with HO Policy 9.1.

**HO Policy 10.1 Inclusionary Housing Approach.** To increase workforce affordable housing construction, the City will continue to require residential developments to provide a percentage of units or an “in-lieu” or other fee for very low, low and moderate income housing. The units provided through this policy are intended for permanent occupancy and must be deed or rent restricted, including but not limited to single family housing, multi-family housing, condominiums, townhouses, and apartments.

*Facts in Support:* The Project, consistent with HO Policy 10.1 and Novato Municipal Code Division 19.24, *Affordable Housing Requirements*, provides 15 affordable condominium units for buyers of low (8 units) and moderate (7 units) income. These units will be subject to an affordable housing agreement and associated deed restriction to ensure long-term affordability.

## ***ENVIRONMENT CHAPTER***

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

*Facts in Support:* The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As described in Section 10, Hydrology and Water Quality of the IS/MND, the Project would be required to comply with the City of Novato’s stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), as well as the requirements of NMC Chapter 7-4, *Urban Runoff Pollution Prevention* and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

The Novato Public Works Department is requiring the Project comply with numerous water quality related conditions of approval. These conditions require the developer to create a Stormwater Control Plan based on the Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. A SWPPP is required to reduce potential adverse impacts to surface



water quality through the Project's construction period. The SWPPP shall include the minimum Best Management Practices (BMPs). These include BMPs for erosion and sediment control, site management/housekeeping/waste management, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

Based on the facts above, the Project is consistent with EN Policy 7.

**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 of Federal list for any rare, endangered or threatened species. The environmental documentation will screen for the Federal Candidate Species, plans 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:* The CEQA IS/MND prepared for the project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in Section 4, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1, the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffer areas and presence of a biological monitor on the construction site to ensure construction activities take place outside of the buffer area.

Based on the findings of the CEQA IS/MND and the noted mitigated measure, the Project is consistent with the and advance EN Policies 18 and 19.

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

*Facts in Support:* A total of 25 trees are currently present at the Project Site and have trunk diameters ranging in size from 6- to 54-inches. All of the trees on the Project Site will be removed, some due to poor health as evaluated by a certified arborist, and the remainder due to construction impacts. The trees to be removed include four (4) heritage trees, which are described in Table 2 below:

**Table 1**

<b>Type</b>	<b>Diameter</b>	<b>Health*</b>
Coast Live Oak	31-inches	Good
Aleppo Pine	35-inches	Marginal
Aleppo Pine	54-inches	Marginal
Aleppo Pine	45-inches	Marginal

\**Good*: health is average, with no significant signs of pest or disease.

*Marginal*: health is compromised and distress is visible, such that the tree may not survive.

Tree removal to accommodate new development is not prohibited by the General Plan or Zoning Ordinance, and is considered on a case-by-case basis when a proposed project is subject to discretionary review. Notably, the Project includes planting of over 120 trees along the perimeter and throughout the interior of the Project Site. Based on the tree replacement ratio, the Project is consistent with EN Policy 26.

**EN Policy 29 Energy Conservation Measures in Buildings.** Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

*Facts in Support:* The Project will be designed to meet the requirements of the California Building Code and Title 24 of the California Code of Regulations. The Project’s construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of the building permit. Additionally, the Project includes solar panels for each unit, and well as all electric appliances. Each garage is wired to allow Electric Vehicle (EV) charging, and there will be an option for future owners to purchase a solar battery to better utilize the solar system.

Based on the noted facts above, the Project is consistent with and advances EN Policy 29.

**EN Policy 35 Watershed Management.** Minimize the effects of pollution in stormwater runoff. Retain and store where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

**EN Policy 37 Using CEQA to Reduce Water Quality Impacts.** Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

*Facts in Support:* Please refer to the response to EN Policy 7, above.

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

State law.

*Facts in Support:* The Project includes individual solid waste and recycling storage for each of the proposed units, consistent with EN Policy 39.

**EN Policy 44 Park and Recreation Facilities.** Develop and maintain to the maximum extent possible given available resources a system of parks to meet the needs of Novato residents.

*Facts in Support:* The Project includes a 1.1-acre private park to be developed with outdoor amenities, including bocce ball courts, a children's play area, community garden beds and meditation garden. The park will serve future Project residents and the general public, as offered by the Applicant. A condition of approval requiring dedication of a public access and use easement has been applied to the Project to ensure the park is available for public use in perpetuity. The Project is considered to be consistent with EN Policy 44.

## ***SAFETY AND NOISE CHAPTER***

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

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

*Facts in Support:* Seismic hazards and soil stability are addressed in Section 7, Geology and Soils, of the CEQA IS/MND prepared for the Project. The analysis contained in the IS/MND determined the Project would likely be subject to liquefaction during a seismic event due to the presence of liquefiable soils on the Project Site as identified during the geotechnical investigation. There is also the potential for rock fall and lateral spreading, phenomena that are often associated with liquefaction. Mitigation Measure GEO-1 is recommended to reduce risks to people and improvements at the site. Mitigation Measure GEO-1 requires all recommendations found in the Geotechnical Investigation prepared for the Project to be included as conditions of approval and implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: grading, surface and subsurface drainage, bio-filtration facilities, foundations, miscellaneous concrete flatwork, retaining walls and foundations, pavement areas, utility trenches, and project review and construction monitoring. Furthermore, application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., California Building Code, City ordinance and conditions of approval) would further reduce seismic hazards.

Based on the facts above, the Project is consistent with and advance SF Policies 1 and 3.

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

*Facts in Support:* As described in Section 10, Hydrology and Water Quality of the CEQA

IS/MND, the Project's drainage system has been designed to meet the City's criteria for drainage and flood control. Specifically, the drainage system proposed would be sufficient to contain a 25-year peak storm event, and the capacity of the existing storm drain system can support the additional runoff from the Project during a 25-year storm event. Additionally, a grass swale in the center of the Project would provide stormwater management and proposed grading would drain stormwater to the proposed storm drainage system prior to connecting to existing stormwater drain systems along the east side of the property. Additionally, the Project would be required to comply with NMC 7.4, Urban Runoff Pollution Prevention, requiring the project to be designed to control runoff volume to the maximum extent feasible through such features as the on-site bioretention (grassy swale) features identified in the Project plans and subject to conditions requiring a stormwater control plan and stormwater management agreement with maintenance by the HOA.

The IS/MND identified that the project would not increase the rate or amount of surface runoff in a manner resulting in flooding or exceeding the capacity of the storm drainage system.

Based on these observations, the Project is consistent with SF Policy 9.

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

**SF Policy 17 Level of Fire Protection.** Work with Novato Fire Protection District to help ensure a continued high level of fire protection.

*Facts in Support:* The Project was referred to the Novato Fire Protection District for review and comment on fire and emergency safety issues. The Novato Fire Protection District submitted comments and recommended conditions of approval for the Project and will review the construction level design plans prepared for the Project to ensure the development includes all necessary fire suppression and vehicle access features.

As described in Section 20, Wildfire, of the CEQA IS/MND, the Project Site is not located in an area with high fire risk, and no mitigation is required to reduce the risk of fire.

The Project includes granting and receiving a reciprocal emergency access (EVA) easement to provide optimal emergency access for the Project and the adjoining City properties (APNs 157-970-05, -06, and -07) leased by Homeward Bound of Marin. This easement will ensure the Novato Fire Protection District has adequate access to serve the Project and the Homeward Bound or Marin's existing and proposed homeless services facilities.

Based on these observations, the Project is consistent with SF Policies 16 and 17.

**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**

<b>Residential Development</b>	<b>Up to 60 dB</b>
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 13, Noise, of the CEQA IS/MND, the existing ambient noise level at the Project Site is 58 dBA Leq. This noise level is within the noise range specified in SF Table 3 and residential use of the property is compatible with the existing noise environment of the Project Site consistent with SF Policy 37.

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

*Facts in Support:* As described in Section 13, Noise, of the CEQA IS/MND, construction of the Project could temporarily expose nearby sensitive receptors at Lanham Village and Novato Village to increased noise levels exceeding the exterior noise level threshold for residential land uses as shown in SF Table 3, above. However, NMC 19.22.070, Noise and Construction Hours, permits authorized construction activities to exceed these noise thresholds when construction occurs between 7:00 am and 6:00 pm on weekdays, and 10:00 am and 5pm on Saturdays. Construction is not permitted on Sundays, nor on federal holidays. A condition of approval will be included requiring construction of the Project to adhere to the provisions of NMC 19.22.070, ensuring construction noise will be less than significant to nearby sensitive receptors.

Sources of noise associated with operation of the Project include rooftop heating, ventilation, and air conditioning (HVAC) equipment, parking lot vehicle activity, and solid waste and recycling collection. This noise would be similar to existing noise produced by surrounding residential uses. As analyzed in the IS/MND, noise produced by vehicles in the parking area and traffic would be less than significant to nearby residential uses due to distance. On-site mechanical noise would be mitigated by the Project design, which includes 30-inch tall parapet walls on all rooftops, reducing noise produced by HVAC equipment by 10 dBA. The IS/MND analysis determined the HVAC equipment noise would be less than 60 dBA, consistent with the noise threshold identified in SF Table 3.

Based on these observations, the Project is consistent with SF Policy 38.

***PUBLIC FACILITIES AND SERVICES CHAPTER***

**PF Policy 5 Potable Water.** Ensure adequate water supply for new and existing development.

**PF Policy 6 Water Conservation.** Develop and implement water conservation programs in Novato.

*Facts in Support:* The Project was referred to the North Marin Water District (NMWD), which would provide potable and recycled water service to the Project for review and comment. The existing recycled water distribution main located at State Access Road must be extended to the Project to serve new landscaping. The Project may connect to the District's potable and recycled water systems by executing an agreement for service, paying connection fees, and installing lateral service lines. NMWD also requested that above-ground reduced pressure principal backflow prevention devices at the water meters be installed. The Project must also comply with the District's water conservation ordinance, Regulation No. 15, which addresses plumbing fixtures, landscaping species selection, and irrigation features intended to reduce potable water consumption.

NMWD's requested improvements are included in the Precise Development Plan as conditions of approval applicable to the Project. Compliance with these conditions of approval will be reviewed through the local building permit review process.

Based on the observations above, the Project is considered to be consistent with PF Policies 5 and 6.

## ***COMMUNITY IDENTITY CHAPTER***

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

*Facts in Support:* Please see the discussion for Housing Policies 3.2 and 3.3, above.

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

*Facts in Support:* The Project's final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. The project is required to connect into the Water District's recycled water line for landscape irrigation.

Based on the observations above, the Project is consistent with CI Policy 7.

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

*Facts in Support:* All existing overhead utilities at the Project Site will be placed underground consistent with the requirements of Chapter V of the Novato Municipal Code. Therefore, the Project is consistent with CI Policy 9.

**CI Policy 12 Parking Standards.** Reduce the visibility of parking facilities and the amount of land necessary for them to maximum extent feasible.

*Facts in Support:* The Project has been designed to include a two-garage for each residential unit. Additionally, the majority of the on-site uncovered parking stalls are located at the rear of the site. A five-foot wide landscape planter and fencing would be located between the parking and the rear property line to screen parked vehicles from the property to the north. The parking would not be visible from State Access Road due to distance and buildings/landscaping screening. Parking is proposed along State Access Road that is open to both residents and guest of the Project, as well as to the general public to utilize the public park portion of the Project. On-street parking will utilize the existing right of way width of State Access Road, and street tree planting is proposed adjacent to these parking stalls. Therefore, the Project is consistent with CI Policy 12.

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

*Facts in Support:* The Project provides a variety of outdoor use and landscape spaces for residents, including a private balcony for each unit, a private patio for the majority of units, and approximately 28,000 square feet of common open space. Common open space amenities include a meditation garden, botanical garden, outdoor cooking and seating areas, picnic tables, fire tables, and landscaping. Additionally, the Project includes a 1.1-acre park on the Project Site that will be available to residents of Hamilton Village, and will be open to the general public. Park amenities include a community garden, bocce ball courts, children's play area, landscaping, and safety fencing. The total amount of open space per unit exceeds the 300-square feet of open space per unit required by the Novato Municipal Code for multi-family projects.

Based on these observations, the Project provides adequate landscaped, open space areas consistent with CI Policy 14.

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

*Facts in Support:* Please refer to the response to TR Policy 22, above.

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

*Facts in Support:* Rincon Consultants completed a search of the California Historical Resources Information System (CHRIS) at the Northwestern Information Center (NWIC) located at Sonoma State University on January 3, 2020. The NWIC identified 54 previously cultural resources studies previously performed within 0.5-mile of the Project site, as well as five (5) cultural resources recorded within 0.5-mile of the Project site. Additionally, the Project Site previously contained the

commissary building for Hamilton Army Airfield. The Hamilton Army Airfield Discontinuous Historic District, located .05-mile east of the project site is recorded as an National Register of Historic Place (NRHP) -listed historic district, however the district boundary does not include the Project Site. Furthermore, the commissary building was demolished in 2010.

The Native American Heritage Commission (NAHC) informed Rincon that the Sacred Lands File check was completed with positive results for a site within the project vicinity, but not the Project Site itself. The NAHC provided Rincon with a list of Native American tribes culturally affiliated with the nearby sacred lands site. However, the Federated Indians of Graton Rancheria (FIGR) did not indicate the presence of any Native American Resources within the Project Site. Additionally, an archeological field survey was conducted by a qualified Rincon archaeologist on January 17, 2020. No archeological features were identified within the project area during the field survey.

Because the project involves a General Plan amendment, Senate Bill 18 (SB 18) and Assembly Bill 52 applies to the Project. 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 November 14, 2019, and by the Guidiville Band of Pomo Indians on November 15, 2019. The City of Novato did not receive a request for consultation from either group.

The potential exists for encountering previously undiscovered archeological resources during construction and earth-moving activities associated with the Project. To ensure that impacts to cultural resources remain less-than-significant, the IS/MND prepared for the Project provides Mitigation Measures CUL-1 and TCR-1 requiring the following:

**Mitigation Measure CUL-1:** If cultural resources are encountered during ground-disturbing activities associated with construction of the Project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans. Implementation of Mitigation Measures CUL-1 would reduce potential impacts to unanticipated archeological resources to less than significant.

**Mitigation Measure TCR-1:** If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with Native American groups. The plan would include avoidance of the resource or, if avoidance of the resource



is infeasible, the plan would outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative. 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 consistent with CI Policy 30.

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

*Facts in Support:* The Applicant has indicated that public art in compliance with the City's Art Program, Division 19.21 of the Zoning Ordinance, will be provided as part of the Project. Staff is recommending a condition of approval that the Applicant fulfill the requirements of the Art Program prior to issuance of a building permit for the Project. Based on the observations above, the Project is consistent with CI Policy 32.

## **Exhibit B**

### **HAMILTON VILLAGE CONDITIONS OF APPROVAL**

Hamilton Village is subject to complying with the following conditions of approval, which shall be implemented by the Applicant. Use of the term “Applicant” in this instance is inclusive of any and all successors in interest to the Project.

#### Initial Study/Mitigated Negative Declaration, Mitigation Measures:

1. Mitigation Measure BIO-1: To avoid impacts to nesting birds and other special-status bird species, ground disturbing activities during construction of the project shall be limited to the period between September 1 and January 31 (i.e., outside the nesting season), if feasible. If initial site disturbance, grading, and vegetation removal cannot be conducted during this period, a qualified biologist shall conduct a pre-construction survey for active nests in and around the project site, no more than two weeks prior to any construction activities. The survey shall include the project site and other such habitat within 500 feet of the project site.

If active nests are identified, the extent of the survey buffer area surrounding the site shall be established by the qualified biologist to ensure that direct and indirect impacts to nesting birds are avoided.

If active nests are identified, species-specific exclusion buffers shall be determined by the biologist (i.e., 500 feet for raptor nests), and construction timing and location adjusted accordingly. The buffer shall be adhered to until the adults and young no longer rely on the nest site, as determined by the biologist. Limits of construction to avoid a nest shall be established in the field with flagging and stakes or construction fencing. Construction personnel shall be instructed on the sensitivity of the area. An on-site biological monitor shall be present during all grubbing and clearing of vegetation to ensure that these activities remain within the project footprint (i.e., outside the demarcated buffer) and that the flagging/stakes/fencing is being maintained, and to minimize the likelihood that active nests are abandoned or fail due to project activities.

2. Mitigation Measure CUL-1: If cultural resources are encountered during ground-disturbing activities associated with construction of the project, work within 50 feet of the find shall be halted and an archaeologist meeting the Secretary of the Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) be contacted immediately to evaluate the find. If no additional work to evaluate the find is necessary, the archaeologist shall evaluate the find for listing in the NRHP and CRHR. If the find requires excavation, the archaeologist shall prepare a work plan and implement a Phase II excavation to evaluate the find. If the discovery proves to be eligible for listing in the NRHP and/or CRHR, the archaeologist shall make recommendations for further treatment such as data or heritage recovery or capping. If the find is of Native American origin, appropriate treatment shall be determined in consultation with local Native Americans.

3. Mitigation Measure GEO-1: The Geotechnical Investigation produced by Quantum Geotechnical, Inc. provides recommendations that would ensure the project is suitable from a geotechnical standpoint and would increase the safety and integrity of the project. All recommendations in the Geotechnical Investigation as described in Items 1-57 of the Discussions, Conclusions and Recommendations of the Report shall be included as conditions of approval and shall be implemented during construction and prior to occupancy of the project. The recommendations address but are not limited to: Grading, Surface and Subsurface Drainage, Bio-filtration Facilities, Foundations, Miscellaneous Concrete Flatwork, Retaining Walls and Foundations, Pavement Areas, Utility Trenches, and project review and construction monitoring.
4. Mitigation Measure HAZ-1: Prior to the beginning of construction, a survey to determine the presence or absence of Petromat® shall be conducted on the paved asphalt area of the site. If Petromat® is present, the tack coating shall be tested for asbestos. If detected, ACM shall be removed from the site by a licensed asbestos abatement contractor in accordance with all applicable regulations (such as BAAQMD Regulation 11, Rule 2: Asbestos Demolition, Renovation and Manufacturing) prior to site preparation and grading activities. BAAQMD Regulation 11, Rule 2 includes provisions such as requiring the use of wetting or exhaust and collection methods to prevent the emissions of particulate asbestos-containing material.
5. Mitigation Measure HAZ-2: Prior to issuance of a building, grading, or demolition permit, the Applicant shall prepare a soil and groundwater management plan for all site preparation, grading or excavation activity conducted on the Project site, to be implemented for soil disturbances occurring in areas documented to contain contaminants and for situations when potential contaminants not previously identified are suspected or discovered.

The plan shall:

- Provide that the construction contractors shall be made aware of the possibility of encountering known and unknown hazardous materials, during grading, excavation, demolition and construction activities. If during such activities the contractor discovers an unknown waste or debris that is believed to involve hazardous waste and/or materials, the contractor shall immediately stop work in the vicinity of the suspected contaminant and remove workers and any members of the public at the Project site from the immediate area of the discovery;
- Describe the monitoring protocols to be implemented during grading and excavation activities to observe any potential indicators of soil contamination, such as soil staining and odors;
- Identify appropriate measures to be followed if contaminants or unknown underground environmental features (e.g., storage tank) or debris are encountered during grading, excavation, and site demolition work to protect workers and the public;
- Prescribe sampling protocols to properly characterize suspected contaminants;

- Specify contaminant thresholds at which regulatory agency (e.g., Marin County Certified Uniform Program Agency, Regional Water Quality Control Board, California Department of Toxic Substances Control) notification is required;
- Incorporate all mitigation measures/conditions of approval addressing dust control;
- Identify personnel to be notified and provide emergency contact information; and
- Prescribe handling protocols for suspected contaminants and appropriate disposal procedures.

The plan shall be prepared by a qualified professional (e.g., geologist, engineer, etc.) and submitted to the Novato Community Development Department for review and approval prior to the issuance of any building, grading, or demolition permit. The plan shall be peer reviewed by a third-party contractor hired by the City at the Applicant's expense to confirm the plan is acceptable.

6. Mitigation Measure HAZ-3: During construction, the Applicant shall ensure the construction contractor complies with the BAAQMD's Basic and Additional Construction Mitigation Measures as modified for the project. Basic measures shall include, at a minimum:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the name and telephone number of the contractor's representative to contact regarding dust complaints. This person shall respond and take corrective action within two hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Additional measures shall include, at a minimum:

- All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.
  - Wind breaks (e.g., fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
  - The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
7. Mitigation Measure HAZ-4: The Applicant shall design and implement engineering measures or institutional controls (e.g., soil vapor barrier) to prevent potential soil vapor intrusion into new residences in accordance with the measures included in the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011) and Vapor Intrusion Mitigation Advisory (2010). Engineering measures or institutional controls shall be submitted to the City's Building Division and Planning Division prior to the issuance of any grading or building permits. Said engineering measures and institutional controls shall be peer reviewed by a qualified third-party contractor hired by the City at the Applicant's expense to confirm such measures and controls comply with applicable regulations. Consultation with Department of Toxic Substances Control may be required to confirm the appropriateness of the measures and controls.

The Applicant and/or contractor shall retain a qualified professional to certify that the accepted measures and controls are properly constructed and functioning at each residence. Written verification shall be submitted to the Novato Community Development Department.

The efficacy of the measures and controls shall be confirmed and certified by a qualified professional pursuant to the construction quality assurance/quality control testing guidance of the Department of Toxic Substances Control's (DTSC's) Vapor Intrusion Guidance Document – Final (October 2011).

8. Mitigation Measure TRA-1: The Applicant shall ensure that landscaping within the bulb-outs at the project driveway shall consist of low-profile shrubs not exceeding three feet in height at maturity or trees with branches trimmed to a minimum of seven feet above the roadway surface. Prior to landscaping approval and installation, the Applicant shall submit to the City Planning Division plans showing this design and prior to occupancy, the City Planning Division shall check to ensure installation of landscaping adheres to these requirements. Such requirements shall be incorporated into the Covenants, Conditions and Restrictions (CC&Rs) for the Project.
9. Mitigation Measure TRA-2: The Applicant shall ensure that on-street parking within the project site driveway shall be prohibited and marked by red curbs. Prior to project construction, the Applicant shall submit to the City Planning Division plans showing this design. Ongoing maintenance of said parking restriction and red curbing shall be included in the CC&Rs for the Project.

10. Mitigation Measure TRC-1: If cultural resources of Native American origin are identified during construction of the project all earth-disturbing work in the vicinity of the find must be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find and an appropriate Native American representative, based on the nature of the find, is consulted. If the City determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared in accordance with state guidelines and in consultation with Native American groups. The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the archeologist and the appropriate Native American tribal representative.
11. Mitigation Measure USS-1: Prior to construction activities commencing, the Applicant shall pay a fair share fee to the NSD for the necessary capacity improvement of upsizing 1,180 feet of pipe from 15-inches in diameter to 18-inches in diameter pursuant to the District's adopted Collection System Master Plan.

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

12. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permit(s), certificate(s) of occupancy or other entitlements.
13. The Applicant shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code Section 9-20.
14. Prior to or concurrent with the recordation of the Final Map, the Applicant shall execute and record an affordable housing agreement and deed restriction in the City's standard form and subject to the approval of the City Attorney. Said agreement will provide for the reservation of a total of 15 residential condominium units, for-sale to qualifying buyers in the low (8 units reserved) and moderate (7 units reserved) income categories consistent with Novato Zoning Ordinance Section 19.24. The affordable housing agreement shall include the City's standard covenant and other affordability agreements for buyers of the affordable units to restrict the unit resales. The affordable housing agreement shall include a requirement for the Project to submit a management plan and Management Agreement subject to the review and approval of the Community Development Director and the City Attorney.
15. The Applicant shall grant a public access easement to the 1.10-acre private park included in the Project to permit public use as offered by the Applicant. The easement shall allow public use in perpetuity. Said easement shall be executed and recorded prior to or concurrent with the recordation of the Final Map for the Project. Said easement shall be subject to review and approval by City Attorney, Community Development Director, and Public Works Director.

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

16. The applicant shall obtain a building permit issued by the City of Novato Building Division prior to commencement of any construction of any structures.
17. The project shall comply with all the requirements of NMC 19.22.070 – *Noise and Construction Hours*.

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

### **General Conditions of Approval**

18. The Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the Uniform Construction Standards All Cities and County of Marin, unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
19. The Applicant shall be responsible for all City plan check, map check and inspection costs. The Applicant shall enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check, map check and inspection costs.
20. The Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall show all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, communication lines, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. No Encroachment Permit shall be issued prior to the approval of the Improvement Plans and approval and recordation of the Improvement Agreement as set forth herein.
21. All existing and proposed electrical and communications lines, both on the site and along its frontages, shall be placed underground at the Applicant's expense. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way or within a public utility easement, at locations approved by the City Engineer. If any utility appurtenances are permitted to be above ground, such as vaults and boxes, they shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be subject to the approval of the appropriate utility company.

22. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. This condition shall be satisfied prior to approval of the Improvement Plans. No new wells or septic systems are permitted on the subject property.
23. A detailed design level Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The Improvement Plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

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

24. A drainage study prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations, narrative and exhibits to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. This study shall include a hydraulic grade line analysis of the existing downstream storm drain. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall also include an analysis of the 100-year storm overland flow.
25. The Applicant shall submit for review and approval a detailed Stormwater Control Plan (SWCP) prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles, treatment vaults, and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans. Mechanical treatment measures shall be consistent with those shown on the vesting tentative map plans.
26. Prior to the approval of the Improvement Plans and prior to the issuance of a grading, building or demolition permit, the Applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Novato Fire Protection District, Department of Fish and Game and U.S. Army Corp of Engineers. Proof of approval and/or clearances, including but not limited to, North Marin Water District, and the Novato Sanitary District shall be submitted



to the City prior to approval of the Improvement Plans. A complete set of Improvement Plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.

27. The Applicant shall obtain written confirmation and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage. Applicant shall locate signs required by NFPD to the satisfaction of the City Engineer.
28. Prior to City approval of the Improvement Plans, the Applicant shall obtain signatures from representatives of the Novato Fire Protection District, North Marin Water District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
29. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
30. All outside garbage facilities shall be designed to be fully covered with a roof meeting Marin County's storm water pollution prevention best management practices.
31. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the improvement plans.
32. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
33. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).

**Special Conditions of Approval:**

34. The Applicant shall submit Improvement Plans for the entire development, including both onsite and offsite improvements, prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the Vesting Tentative Map of Hamilton Village (9 sheets) prepared by CSW/Stuber-Stroeh Engineering Group last revised March 31, 2020 (referred to herein as Tentative Map). The onsite and offsite improvement plans may be submitted as separate packages.
35. All on-site (defined as within the subdivision boundaries) streets, parking lots, sidewalks, streetlights, private sanitary sewer facilities, storm drain facility, stormwater quality facilities and landscaping shall be privately owned and maintained, except for the public storm drain within Public Drainage Easement along the east side of the site.

36. The Applicant shall construct all of the Public Improvements generally as shown on the Tentative Map and more specifically described below.
- a. Widen State Access Road along the site frontage to provide on-street parking as shown on Sheet C3.0 of the Tentative Map. The maximum cross-slope of the new parking lane shall be 4%. If necessary, reconstruct part of the existing roadway to meet this requirement. Construct curb, gutter and sidewalk along the site frontage and extending west along State Access connecting to the existing sidewalk at Nave Drive. Install streetlights along the site frontage and extending west to Nave Drive.
  - b. Restripe State Access Road from the east line of the site to Nave Drive to provide the vehicle lanes and Class 2 bicycle lanes as shown on Sheet C3.0 of the Tentative Map. The final widths of these lanes shall be as approved by the City Engineer. Re-stripe the turn pockets approaching Nave Drive. Provide bicycle lane markings and signage.
  - c. Extend the storm drain in State Access Road west and provide a catch basin at the upstream side of the entrance curb return.
37. The Applicant shall construct all of the private improvements generally as shown on the Tentative Map and more specifically described below.
- i. Install onsite storm drain facilities in accordance with the final approved drainage report.
  - ii. Construct the permanent on-site and offsite private post-construction stormwater treatment facilities in accordance with the approved final SWCP. As shown on the Vesting Tentative Map, onsite mechanical treatment shall be permitted to satisfy BASMAA requirements.
  - iii. Construct all onsite curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities in accordance with the approved Improvement Plans.

**Final Map Conditions of Approval:**

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

information shown on the closure calculation printout. A current title report (within past 30 days) shall be submitted at the time of initial Final Map submittal.

39. The Applicant shall transmit by certified mail a copy of the conditionally approved Tentative Map together with a copy of Section 66436 of the State Subdivision Map Act to each public entity or public utility that is an easement holder of record.
40. The Final Map will not be approved prior to approval of the Improvement Plans, Subdivision Improvement Agreement, Affordable Housing Agreement, Stormwater Control Agreement.
41. On the Final Map, the Applicant shall indicate that all common parcels are or will be dedicated to the Homeowner's Association
42. On the Final Map, the Applicant shall dedicate the public utility easements and emergency vehicle access easements over the private roadway areas as shown on the Tentative Map. The waterline easements and sanitary sewer easements shall be created by separate instrument.
43. Submit legal descriptions and plats for the requested access easement and emergency vehicle access easement over the HUD Parcel (APN 159-970-07).
44. Prior to approval of the Final Map, the Applicant shall enter into an Improvement Agreement in accordance with NMC Section 9-27 to ensure completion of all onsite and offsite improvements, including but not limited to, grading and construction of any curbs, gutters, sidewalks, roadway improvements, storm drainage facilities, water facilities, sewer facilities, street lighting, signage, striping, and other utilities, to the reasonable satisfaction of the City Engineer. The Improvement Agreement shall be secured to guarantee the faithful performance of the agreement in the amount of 100% of the estimated cost of the improvements and for the payment of labor and materials in the amount of 100% of the estimated cost of the improvements in accordance with the Subdivision Map Act. A final certificate of occupancy shall not be issued for any structure until required improvements are completed to the satisfaction of the City Engineer.
45. Prior to the approval of the Final Map, the Applicant shall submit Covenants, Conditions and Restrictions (CC&Rs) for review and approval of the City Engineer, City Attorney and Community Development Director. The approved CC&Rs shall rerecorded concurrent with the recordation of the Final Map. As part of the CC&Rs, the Applicant shall establish a Homeowner's Association (HOA) in accordance with State law, which HOA shall be responsible for the long-term and ongoing maintenance of all common onsite and offsite improvements. Specifically, the HOA will be responsible for the long-term and ongoing maintenance of the park, all streets, parking lots, sidewalks, streetlights, sanitary sewer facilities, storm drain facilities, except for the public storm drain within Public Drainage Easement along the east side of the site, stormwater quality facilities, common garbage facilities if any, landscaping and all other improvements within the HOA owned common parcels, easements, and the offsite curb, gutter, sidewalk, and post-construction stormwater

treatment facilities and landscaping within the public right-of-way along the State Access Road frontage in accordance with the required License Agreement and Stormwater Operations and Maintenance Agreement. The CC&R's shall also include a provision restricting the use of garages for the parking of the number of vehicles for which the garage was designed.

46.

The CC&Rs shall include a provision granting to the City enforcement authority, but not an obligation over the HOA's maintenance obligations and the obligation to review and approve proposed changes or amendments to the CC&R's. The CC&Rs shall also require professional management of the HOA for the first two (2) years after issuance of the final certificate of occupancy for a unit in the Project, and shall require the HOA to create and maintain a separate maintenance reserve fund as required by the California Department of Real Estate..

47. Prior to recordation of the Final Map, the Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained, along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs. Once approved and prior to recordation of the Final Map, the Applicant shall enter into a Stormwater Operations and Maintenance Agreement (SOMA) with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices. Such SOMA shall be recorded concurrent with the Final Map and shall be referenced in the CC&Rs with ongoing requirements to be assumed by the HOA.

48. Prior to recordation of the Final Map, the Applicant shall enter into a license agreement with the City to authorize maintenance of the post-construction stormwater treatment facilities and landscaping within the State Access Road right-of-way.

#### **Construction Conditions of Approval:**

49. The Applicant shall install all construction stormwater pollution prevention measures as indicated in the SWPPP consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be engaged by the Applicant at the Applicant's expense. Such SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The CC&Rs and SWCA shall require that the HOA continue to engage such qualified SWPPP Practitioner on an ongoing basis. The Applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.

50. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through

Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall advise all contractors of the construction and inspection hours. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.

51. A City of Novato Encroachment Permit shall be obtained by the Applicant or contractor prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
52. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" in diameter and larger shall be professionally televised by the Applicant and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired by the Applicant to the satisfaction of the City Engineer.
53. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
54. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways via wet-sweeping or an equivalent process that does not produce dust. Dry-sweeping shall be prohibited."
55. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed, and service connections stubbed out behind the sidewalk by the Applicant. Public utilities, Cable TV, sanitary sewers and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
56. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted by the Applicant for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
57. Utilities to be abandoned shall be removed or completely filled with suitable material and

capped to the approval of the applicable utility agency and to the approval of the City Engineer.

58. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
59. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.

**Occupancy Conditions of Approval:**

60. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
61. Prior to occupancy of any building, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements were constructed and inspected in substantial conformance with the approved plans and City Standards.
62. Prior to occupancy of any building, the Applicant shall provide a mylar and digital copy of the Improvement Plans that include all as-built or field changes.

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

63. An automatic residential fire sprinkler system is required to be installed in all new residences including garages conforming to NFPA Std. 13D, Fire Protection Standard #401, and as modified by the Fire Marshal. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation.
64. Fire hydrants capable of supplying 1,500 gallons per minute minimum will be required to be installed so that spacing between hydrants does not exceed 300 feet as shown on the approved plans. The fire hydrants shall be spotted by the Fire Marshal and contain at least one 4½- and one 2½ -inch outlets. Installation shall conform to the specifications of the North Marin Water District.
65. Fire hydrants shall be installed in accordance with the applicable standard, tested, and operational prior to framing.
66. Fire hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a blue reflective roadway marker installed per NFD Standards.

67. Proposed roads and driveways shall not exceed 18% grade.
68. Roadways and driveways shall have a minimum clearance of not less than 20-feet horizontal by 14-feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
69. Roadways shall be not less than 20-feet wide capable of accommodating a 60,000 gross vehicle weight (GVW) and driveways not less than 16-feet wide capable of accommodating a 40,000 GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.
70. Consistent with the vesting tentative map, a second means of emergency ingress and egress for fire apparatus shall be installed capable of accommodating Novato Fire District apparatus and conform to NFD standard #210.
71. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards.
72. An approved fire gate shall be located by the Fire Marshal and installed conforming to NFD Standard #221.
73. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
74. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
75. A building and 'Floor Plan Directory' shall be installed in all locations required by the Fire Marshal, and conforming to Novato Fire Protection Standard #205A.
76. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.

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

77. The subject property is within a Special Assessment District established to recover the capacity improvement cost of the sanitary sewer. Payment of the assessment fee and connection charges will be required prior to the project making connection to the public sewer.
78. The Applicant shall pay the District's current connection fees at time of connection.

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

79. The existing water recycled water distribution main located at State Access Road must be extended to the project. The onsite facilities shall be designed to use recycled water for irrigation and shall be designed to prevent discharge onto areas not under control of the Applicant.
80. The Applicant shall apply to the District, enter into an agreement with the District, and complete financial arrangements for the new facilities. Occupancy approval for each building shall not be granted until water service installation and sign off is complete for that building.
81. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter may be required in accordance with the District's Regulation 6 and California Department of Health Regulations (Title 17). If required, upon installation, an inspection report (device testing) must be completed and returned to the District prior to the commencement of business activities.
82. The project must conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
83. City of Novato Indemnity and Time Limitations

As to the Tentative Map Entitlement

- a. In accordance with Government Code Section 66474.9, 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 approval at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the City, and/or parties initiating or bringing such action.
- b. In the event that a claim, action, or proceeding described 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 if both of the following occur: The City bears its own attorney's fees and costs; and, the City defends the action in good faith. 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 subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the subdivider. 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.

- c. 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.
- 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.

#### As to All of the Other Entitlements

- 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 decision(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 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 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.
- g. 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 decision(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 City, and/or parties initiating or bringing such action

# Homeward Bound

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OF MARIN

May 27, 2020

Novato Planning Commission  
922 Machin Ave.  
Novato, CA 94945

Dear Planning Commissioners:

It is with enthusiasm that Homeward Bound supports the new City Ventures housing project adjacent to the HUD Parcel at Hamilton.

For the last two years, our architects and team have been in conversation and collaboration with Samantha Hauser and her development team regarding our two projects. We have been impressed with the responsive communication and problem solving that both teams have achieved.

We look forward to the complete development of these Hamilton sites and especially to the critical housing they will provide for the community.

Sincerely,



Mary Kay Sweeney, Ph.D.  
Executive Director



Paul Fordham  
Deputy Executive Director