

PLANNING COMMISSION

RESOLUTION NO. 2021-007

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM FOR THE BAHIA RIVER VIEW ZONING MAP AMENDMENT, TENTATIVE SUBDIVISION MAP, AND DESIGN REVIEW LOCATED ON THE SOUTHERLY SIDE OF BAHIA DRIVE (APN 143-151-06) BETWEEN TOPAZ DRIVE AND CERRO CREST DRIVE

WHEREAS, the City of Novato (“City”) received applications submitted by Bahia Lands, LLC (“Applicant”) for a zoning map amendment, tentative subdivision map, and design review for the proposed Bahia River View (“Project”), located on the southerly side of Bahia Drive, APN 143-151-06 (“Project Site”) between Topaz Drive and Cerro Crest Drive; and

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

WHEREAS, an Initial Study was prepared in compliance with the provisions of CEQA and the CEQA Guidelines, and the procedures for review set forth in the City of Novato Environmental Review Guidelines. The Initial Study considered the Project Site and its setting and the potential effects of the construction and operation of the Project on the basis of the technical subjects included in the environmental checklist provided in Appendix G of the CEQA Guidelines; and

WHEREAS, the Initial Study determined the Project and its associated entitlement actions could result in potentially significant impacts to the environment in the CEQA topical areas of Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, Wildfire, and Mandatory Findings of Significance. However, feasible mitigation measures were identified that will reduce all potentially significant impacts to a less-than-significant level; and

WHEREAS, on the basis of the findings of the Initial Study, the City has prepared a Mitigated Negative Declaration in compliance with CEQA, the CEQA Guidelines as promulgated by the Secretary of the Natural Resources Agency, 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 Initial Study/Mitigated Negative Declaration (IS/MND); and

WHEREAS, local tribal organizations were invited to consultant with the City pursuant to California Public Resources Code Section 21080.3.1 regarding potential project impacts to tribal cultural resources. No tribal organization accepted the City's invitation for consultation; and

WHEREAS, a notice of intent to adopt a mitigated negative declaration describing the City's intent to adopt a Mitigated Negative Declaration for the Project and announcing a 20-day public review period beginning on June 11, 2021, and ending on July 1, 2021, was sent to all affected property owners within 600 feet of the boundaries of the Project Site, all responsible and trustee agencies, the Marin County Clerk, the Federated Indians of Graton Rancheria, and all persons requesting notice pursuant to Novato Municipal Code Section 19.58.020, CEQA, and the CEQA Guidelines; 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, the Federated Indians of Graton Rancheria, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, on July 30, 2021, and published in the Marin Independent Journal, a newspaper of local circulation, on July 30, 2021; and

WHEREAS, the Planning Commission held a public hearing on August 9, 2021, and considered all oral and written comments on the Mitigated Negative Declaration, it's accompanying Initial Study, and the Project.

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

Section 1. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Initial Study, Mitigated Negative Declaration, and the appendices and technical reports cited in and/or relied upon in preparing the Initial Study/Mitigated Negative Declaration, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, and the Project's associated development entitlement requests (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR, the Novato 2015-2023 Housing Element and its related EIR, and the Novato Municipal Code, (5) all designs, plans, studies, data and correspondence submitted by and to the City in connection with the IS/MND, the Project, and the Project's associated development entitlement requests (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the IS/MND, the Project, and the Project's associated development entitlement requests (7) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

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

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

Based upon information in the Initial Study/Mitigated Negative Declaration (IS/MND) for the Project, dated June 2021, the Record as described above, and all other matters deemed material and relevant prior to adopting this resolution, the Planning Commission hereby recommends the adoption of a Mitigated Negative Declaration for the Project and its associated development entitlements based on the following:

- a. The proposed Initial Study/Mitigated Negative Declaration (IS/MND) has been completed in compliance with the California Environmental Quality Act (California Public Resources Code § 21000 - 21178), the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3), and the City of Novato Environmental Review Guidelines; and
- b. The proposed Initial Study/Mitigated Negative Declaration (IS/MND) was presented to the Planning Commission, which, at a properly noticed hearing before the public, reviewed and considered the information contained in the IS/MND prior to making a recommendation to the City Council regarding the Project and its associated development entitlements; and
- c. The Mitigated Negative Declaration reflects the City's independent judgment and analysis as Lead Agency.

Substitution of Mitigation Measure(s)

Subsequent to the public review of the Draft IS/MND the City determined that Mitigation Measure BIO-2, regarding a potential impact to special-status bats, should be revised to be more effective, pursuant to CEQA Guidelines Section 15074.1.

- d. The public hearing held on August 9, 2021, satisfies the requirements of Section 15074.1(b)(1) of the CEQA Guidelines; and
- e. In accordance with Section 15074.1(b)(2) of the CEQA Guidelines, new Mitigation Measure BIO-2 is equivalent or more effective in mitigating or avoiding potentially significant effects on the environment. Specifically, the substitute mitigation measure includes more specific actions if roosting special-status bats and or bat signs (i.e. guano) are identified at the Project Site.
- f. Based on the foregoing finding d. and e., and analysis in the staff report and IS/MND, Mitigation Measure BIO-2 is substituted as follows:

BIO-2 No more than 30 days prior to construction (including demolition work and tree trimming/removal activities), a qualified biologist will conduct a visual and acoustic preconstruction survey for roosting special-status bats and/or bat sign (i.e., guano) within 300 feet of suitable tree roosting habitat. A minimum of one day and one evening will be included in the visual preconstruction survey, which should concentrate on the period when roosting bats are most detectable (i.e., when leaving the roosts between one hour before sunset and two hours after sunset).

If bats (individuals or colonies) are detected, the California Department of Fish and Wildlife (CDFW) shall be notified immediately. If a bat roosting or maternity colony cannot be completely avoided, a qualified biologist shall prepare a bat mitigation and monitoring plan for CDFW review and approval. Potential measures to be included in the plan are restrictions of timing of activities, placement of exclusion barriers when bats are foraging away from the roost, and replacement of roosting structures.

Section 3. CEQA Findings

The Planning Commission hereby adopts and recommends to the City Council the adoption of the Initial Study/Mitigated Negative Declaration (IS/MND), dated June 2021, and based thereon and on the Record as a whole, the Planning Commission hereby finds and recommends that the City Council find that all significant environmental effects of the Project and its associated development entitlement actions have been reduced to a less-than-significant level in that all significant environmental effects have been eliminated or substantially lessened by the mitigation measures set forth in the IS/MND. Based upon the foregoing, and as detailed in *Exhibit A*, attached hereto and incorporated herein by reference, 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 4. Mitigation, Monitoring, and Reporting Program

The Planning Commission hereby recommends the City Council adopt the mitigation measures set forth in the Mitigated Negative Declaration/Initial Study (IS/MND) and further set forth in its accompanying Mitigation, Monitoring, and Reporting Program (MMRP), as detailed in *Exhibit B*, attached hereto and incorporated herein by reference, pursuant to California Public Resources Code Section 21081.6 and Section 15097 of the CEQA Guidelines, which is a program designed to ensure compliance with the project changes and mitigation measures imposed to avoid or substantially lessen the significant effects identified in the IS/MND and said mitigation measures are described in the MMRP included therein and incorporated herein by reference.

Section 5. Indemnity and Time Limitations

- a. The Applicant and the property owner, and any successor in interest, whether in whole or in part, to either of them, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's recommendation to the City Council at issue herein. This indemnification shall include damages or fees awarded against the City and/or its agents, officers, attorneys, or employees, if any, costs of suit, attorney's fees, and any other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such claim, action, or proceeding.
- b. The Applicant and the property owner, and any successor in interest, whether in whole or in part, to either of them, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees for all costs incurred in additional investigation of or

study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary or advisable by said claim, action, or proceeding and the Applicant and/or the property owner desires to pursue securing such approvals, after initiation of such, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

- c. In the event that a claim, action, or proceeding described in subparagraphs a. or b. above is brought, the City shall promptly notify the Applicant and the property owner, and/or their successor(s) in interest, 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 and/or the property owner in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own defend any claim, action, or proceeding where the Applicant and/or the property owner, or their successor(s) in interest, has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the Applicant or the property owner, and/or their successor(s) in interest, as appropriate.
- d. The Applicant and the property owner, and any successor in interest, whether in whole or in part, to either of them, 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 California 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 California 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 California Government Code Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a special meeting of the Planning Commission of the City of Novato held on the 9th day of August 2021, by the following vote:

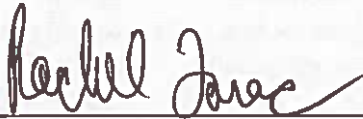
AYES: Commissioners Derby, Gerber, Havel, Heath, and Farac

NOES: Commissioner Tiernan

ABSTAIN: None

ABSENT: Commissioner Dawson

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 9th day of August 2021.



Rachel Farac, Chair

Attachments

Exhibit A – Statement of CEQA Findings and Facts

Exhibit B – Bahia River View CEQA Mitigation Monitoring and Reporting Program

**EXHIBIT A
BAHIA RIVER VIEW
BAHIA DRIVE; APN 143-151-06**

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 Initial Study/Mitigated Negative Declaration (IS/MND), 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 (IS/MND) that describes in detail the setting and potentially significant impacts. The Facts that follow in turn reference the specific mitigation measures for such impacts. All Mitigation Measures are set forth in full in the Mitigation, Monitoring, and Reporting Program (MMRP) included in the IS/MND 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. Additionally, there is a potential impact to roosting special-status bats; MM BIO-2 will reduce potential impacts 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 or roosting special-status bats by implementation of the Mitigation Measure BIO-1 and BIO-2 as identified in the Mitigated Negative Declaration/Initial Study.

Facts in Support of Finding: Mitigation Measure BIO-1 has been proposed in the IS/MND 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. Mitigation Measure BIO-2 requires pre-construction visual and acoustic surveys for roosting bats 30 days prior to construction activities. If bats are detected, they should be avoided, or if avoidance is not

possible, a mitigation and monitoring plan shall be reviewed and approved by the CA Department of Fish and Wildlife prior to implementation.

- B. Cultural Resources Impacts:** There is the potential for unanticipated discovery of archeological resources and/or cultural resources during construction of the Project. There is also the potential for unanticipated discovery of human remains during land disturbance activities. Implementation of Mitigation Measure CUL-1 and CUL-2 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 Measures CUL-1 and CUL-2 as identified in the IS/MND.

Facts in Support of Finding: Mitigation Measures CUL-1 and CUL-2 have been proposed in the IS/MND to ensure the protection of archaeological resources and/or cultural resources, and human remains which could be impacted due to construction of the Project. Mitigation Measure CUL-1 requires that work be stopped if resources are exposed during land disturbance activities. If unknown resources are discovered, a qualified archaeologist would need to determine the significance of the find and potentially prepare an archaeological treatment plan regarding the resource(s). Mitigation Measure CUL-2 requires that in the event that human remains are exposed during construction activities, all earth-disturbing work stop and that the County Coroner be immediately notified. If remains are determined to be Native American, a Native American representative would be contacted to determine the disposition of the human remains.

- C. Geology and Soils Impact:** There is the potential for landslides at the project site due to soils types that are more prone to instability on parts of the project site, although no evidence of active instability was observed. Mitigation Measures GEO-1 will ensure that grading activities do not result in landslides. Implementation of Mitigation Measure GEO-1 would reduce this potentially significant impact to a less-than-significant level. Additionally, there is a potential impact to unknown paleontological resources at the site. Mitigation Measures GEO-2, which requires construction to stop if unknown resources are discovered will reduce potential impacts 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 reduce impacts to avoid or substantially lessen the potentially significant environmental impact related to landslides by implementation of Mitigation Measure GEO-1 as identified in the IS/MND. Mitigation Measure GEO-2 would reduce potential impacts to unknown paleontological resources that may be discovered during construction activities.

Facts in Support of Finding: Mitigation Measure GEO-1 and GEO-2 is required to ensure the Project does not result in loss, injury, or death due to landslides or adversely impact unknown paleontological resources at the site. GEO-1 will ensure that grading and construction methods will not result in unstable surfaces or structures, and GEO-2 ensure that, if unknown paleontological resources are exposed, a qualified professional will be required to determine the significance of the find and prepare a paleontological treatment plan, if necessary.

D. Hazards and Hazardous Materials Impact: There is the potential for on-site construction equipment to leak hazardous materials, such as fuel, oil, and lubricants due to unanticipated spills. Mitigation measure HAZ-1 requires contractors to incorporate measures to reduce the risk of leaks and best management practices for cleaning accidental leaks. The measures and practices are required to be included with the Erosion Control Plan, Sediment Control Plan, and or Stormwater Pollution Prevention Plan. Implementation of Mitigation Measure HAZ-1 will reduce potential 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 reduce impacts to avoid or substantially lessen the potentially significant environmental impact related to landslides by implementation of Mitigation Measure HAZ-1.

Facts in Support of Finding: Mitigation Measure HAZ-1 is required to ensure the Project does not result in adverse impacts due to unintentional spills of hazardous materials at the site, associated with grading and construction at the site. Regular inspections of construction equipment for leaks; best management practices for spill prevention, including having spill kits on-site, City approval of construction staging areas, and spill notification requirements will reduce potential impacts to a less than significant level.

E. Noise Impact: There is the potential for short-term construction-related noise exceed acceptable levels. Mitigation Measure NOI-1 requires a pre-construction meeting with City staff, limitations on construction hours, and other noise attenuating practices to reduce noise levels to an acceptable level. Implementation of Mitigation Measure NOI-1 will reduce potential impacts to a less than significant level (IS/MND Section 13, Noise).

Finding: Based on the Record, the Planning Commission finds that changes or alterations have been required in, or incorporated into, the Project which will reduce impacts to avoid or substantially lessen the potentially significant environmental impact related to noise by implementation of Mitigation Measure NOI-1.

Facts in Support of Finding: Mitigation Measure NOI-1 is required to ensure the Project does not result in adverse impacts due to construction noise. Limitations on construction hours; the posting of Novato Code Enforcement contact information for noise complaints; best management practices regarding the staging of noisy equipment; and the use of mufflers on noisy equipment will reduce the temporary potential impacts associated with construction noise to a less than significant level.

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DRAFT MITIGATION MONITORING AND REPORTING PROGRAM

Draft Bahia River View Project Mitigation Monitoring and Reporting Program

The California Environmental Quality Act (CEQA) requires that when a lead agency adopts a Mitigated Negative Declaration (MND), it shall prepare a mitigation monitoring and reporting program (MMRP) for all required mitigation measures (CEQA Guidelines Section 15097). This MMRP identifies the monitoring program for mitigation measures identified by the IS/MND to reduce or avoid impacts associated with implementing the proposed Bahia River View Project. The MMRP shall be maintained by the City of Novato.

Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
<p>Biological Resources</p> <p>MM-BIO-1</p>	<p>If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct pre-construction surveys for any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31 and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. Unless otherwise agreed upon in consultation with CDFW, a 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the</p>	<p>Project Contractor</p>	<p>City of Novato</p>	<p>Survey conducted within 15 days prior to commencement of ground clearing activities if commencement will occur between February 1 and August 31</p>	<p>Preconstruction surveys are conducted if necessary, based on timing No-disturbance buffer zones are maintained around active nests until the subject nests are no longer active</p>

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
MM-BIO-2	<p>buffer zone may be reduced upon approval by CDFW.</p> <p>No more than 30 days prior to construction (including demolition work and tree trimming/removal activities), a qualified biologist will conduct a visual and acoustic preconstruction survey for roosting special-status bats and/or bat sign (i.e., guano) within 300 feet of suitable tree roosting habitat. A minimum of one day and one evening will be included in the visual preconstruction survey, which should concentrate on the period when roosting bats are most detectable (i.e., when leaving the roosts between one hour before sunset and two hours after sunset).</p> <p>if bats (individuals or colonies) are detected, the California Department of Fish and Wildlife (CDFW) shall be notified immediately. If a bat roosting or maternity colony cannot be completely avoided, a qualified biologist shall prepare a bat mitigation and monitoring plan for CDFW review and approval. Potential measures to be included in the plan are restrictions of timing of activities, placement of exclusion barriers when bats are foraging away from the roost, and replacement of roosting structures.</p>	Project Contractor	City of Novato	Survey conducted within 30 days prior to construction	<p>Pre-construction surveys are conducted</p> <p>Avoidance of impacts to active bat roosts</p> <p>If avoidance is infeasible, notification of CDFW, preparation and implementation of mitigation monitoring plan</p>
Cultural Resources					
MM-CUL-1	In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall	Project Contractor	City of Novato	Throughout construction	Impacts avoided to unanticipated archaeological resources

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
MM-CUL-2	<p>Immediately stop until a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, can evaluate the significance of the find and determine whether or not an additional study is warranted. Depending upon the significance of the find under CEQA (14 CCR 15064.5[f]; California Public Resources Code, Section 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.</p> <p>In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner has determined, within 2 working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she shall notify the Native American Heritage Commission in Sacramento within 24 hours.</p> <p>In accordance with California Public Resources Code, Section 5097.98, the Native American Heritage Commission must immediately notify those persons it believes to be the most likely descendant from the deceased Native American. The most likely</p>	Project Contractor	City of Novato	Throughout construction	<p>Compliance with California Health and Safety Code</p> <p>Impacts minimized or avoided to potential human remains</p>

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	<p>descendant shall complete their inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains.</p>				
Geology and Soils					
MM-GEO-1	<p>Prior to the issuance of any construction or grading permits, design level geotechnical investigations for individual lots shall be reviewed by City of Novato Engineering and Services, Project Design and Construction Management section. In addition to a design level geotechnical investigation for individual lots, the proposed project shall be designed to comply with the recommendations provided in the Geologic and Geotechnical Feasibility Study by Miller Pacific Engineering Group, dated March 30, 2017 (Appendix D), as a condition of project approval.</p>	Project Contractor	City of Novato Engineering	Prior to issuance of construction or grading permits	<p>Submission of geotechnical reports for individual lots</p> <p>Compliance with Geotechnical Feasibility Study</p>
MM-GEO-2	<p>In the event that paleontological resources (e.g., fossils) are exposed during construction activities for the project, all construction work occurring within 50 feet of the find shall immediately stop until a qualified paleontologist meeting the professional standards of the Society of Vertebrate Paleontology can evaluate the significance of the find and determine whether or not additional study is warranted. If the discovery is clearly not significant, the paleontologist may document the find and allow work to continue. If the discovery proves potentially significant under CEQA, additional work such as preparation of a paleontological treatment plan and monitoring in the area of the find</p>	Project Contractor	City of Novato	Throughout construction	<p>Impacts to paleontological resources avoided or minimized</p> <p>Preparation and implementation an Erosion and Sediment Control Plan for all construction activities</p>

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	<p>may be warranted. In order to reduce runoff and erosion and minimize the potential of sedimentation as a result of project construction and operation, the developer for each lot shall, prepare and implement an Erosion and Sediment Control Plan for all construction activities.</p>				
<p>Hazards and Hazardous Materials</p>					
MM-HAZ-1	<p>The following measures shall be implemented prior to and during construction and shall be incorporated into project plans and specifications, including the Erosion and Sediment Control Plan and/or Storm Water Pollution Prevention Plan.</p> <ul style="list-style-type: none"> All equipment shall be inspected by the contractor for leaks prior to the start of construction and regularly throughout project construction. Leaks from any equipment shall be contained and the leak remedied before the equipment is again used on the site. Best management practices for spill prevention shall be incorporated into project plans and specifications and shall contain measures for secondary containment and safe handling procedures. A spill kit shall be maintained on site throughout all construction activities and shall contain appropriate items to absorb, contain, neutralize, or remove hazardous materials stored or used in large quantities during construction. 	Project Contractor	City of Novato	Prior to and during construction	<p>Implement measures prior to and during construction</p> <p>Handle hazardous substances in accordance with Title 22 of the California Code of Regulations</p>

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	<ul style="list-style-type: none"> Project plans and specifications shall identify construction staging areas and designated areas where equipment refueling, lubrication, and maintenance may occur. Areas designated for refueling, lubrication, and maintenance of equipment shall be approved by the City. In the event of any spill or release of any chemical or wastewater during construction, the contractor shall immediately notify the City. <p>Hazardous substances shall be handled in accordance with Title 22 of the California Code of Regulations, which prescribes measures to appropriately manage hazardous substances, including requirements for storage, spill prevention, and response and reporting procedures.</p>				
Noise					
MM-NOI-1	<p>A pre-construction meeting shall be held between the City of Novato and the general contractor/on-site project manager to confirm that noise management practices are completed prior to commencement of construction (e.g., construction hours, neighborhood notification, posted signs).</p> <ul style="list-style-type: none"> A notice regarding an on-site complaint and enforcement manager shall be posted. The manager shall respond to and track complaints. The manager shall be responsible for responding to any complaints regarding construction noise and for 	Project Contractor/ Manager and City of Novato	City of Novato	Prior to commencement of construction Throughout construction	Attend pre-construction meeting Comply with required noise management practices

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Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	<p>coordinating with adjacent land uses/owners. The manager shall determine the cause of any complaints and coordinate with the construction team to implement effective measures (considered technically and economically feasible) to correct the problem. The telephone number of the on-site complaint and enforcement manager and the number for the City Code Enforcement (415-899-8989) shall be posted at the construction site and provided to neighbors in a notification letter.</p> <ul style="list-style-type: none"> • Noise-generating construction activities shall be limited to between 7:00 a.m. and 6:00 p.m. on weekdays and between 10:00 a.m. and 5:00 p.m. on Saturdays. No construction shall occur on Sundays or official national holidays, except as otherwise authorized by the Director of Community Development. • Semi-stationary equipment (e.g., generators, compressors) shall be located as far from nearby residences as possible. • The quietest available equipment and electrically powered equipment shall be used, rather than internal combustion engines, where feasible. • Equipment and on-site trucks used for project construction shall use the best available noise control techniques (e.g., improved mufflers, 				

EXHIBIT B

DRAFT MITIGATION MONITORING AND REPORTING PROGRAM

Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	<p>equipment redesign, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds). All construction equipment shall be inspected at periodic intervals to ensure proper maintenance and resulting lower noise levels.</p> <ul style="list-style-type: none"> • Impact tools (e.g., jack hammers, pavement breakers, rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed-air exhaust from pneumatically powered tools. An exhaust muffler on the compressed-air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to approximately 10 A-weighted decibels (dBA). External jackets on the tools themselves shall be used where feasible, which could achieve a reduction of 5 dBA. • All internal combustion construction equipment shall be equipped with mufflers in working order. • All stationary equipment shall be located as far as feasible from adjacent residences. 				