

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2021-008

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE AN AMENDMENT TO THE NOVATO ZONING MAP TO CHANGE THE ZONING DISTRICT FROM PLANNED DISTRICT (PD) TO LOW DENSITY RESIDENTIAL, 10,000 SQUARE-FOOT MINIMUM LOT SIZE (R1-10), ON A 6.8-ACRE SITE 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 an application (P2018-080) submitted by Bahia Lands, LLC ("Applicant") proposing to amend the Zoning Map from Planned District (PD) to Low Density Residential, 10,000 square-foot minimum lot size (R1-10) (hereafter "Amendment"), on a 6.8-acre site located on the southerly side of Bahia Drive, APN 143-151-06 ("Project Site"); and

WHEREAS, in addition to the application for the Amendment, the Applicant has also submitted applications for tentative subdivision map and design review (collectively, the "Project"); and

WHEREAS, the 6.8-acre Project Site is currently zoned Planned District (PD), as depicted on the Novato Zoning Map; and

WHEREAS, the Amendment is requested to designate the Project Site as Low Density Residential, 10,000 square-foot minimum lot size (R1-10), as depicted in Exhibit A included herein. The purpose of the Amendment is to change the zoning for consistency with the Low Density Residential (R1) General Plan Land Use designation applied to the Project Site by the 1996 Novato General Plan and 2035 Novato General Plan; 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, by separate resolution, the Planning Commission did recommend the City Council adopt an Initial Study/Mitigated Negative Declaration ("IS/MND") for the Project, and did consider the IS/MND prior to taking action on the Project, including the Amendment at issue herein; and

WHEREAS, on April 24, 2017, the Applicant hosted a neighborhood meeting to present the Project to and receive feedback from the public, which was noticed and conducted in accordance with the requirements of Novato Municipal Code Section 19.40.070D; and

WHEREAS, public notices describing the Planning Commission's public hearing on 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 notice pursuant to Novato Municipal Code Section 19.58.020 and California Government Code Sections 65905 and 65091, on July 30, 2021, and published in the Marin Independent Journal, a newspaper of general circulation, on July 30, 2021; and

WHEREAS, the Planning Commission held a duly noticed public hearing on August 9, 2021, to consider and receive public testimony on the Project, including the Amendment at issue herein; and

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation on the Project, including the Amendment at issue herein includes, but is not limited to: (1) the IS/MND and Mitigation Monitoring Reporting Program ("MMRP"); (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 MMRP, 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, the Novato 2015-2023 Housing Element and its related EIR, and the Novato Municipal Code; (5) all designs, plans, studies, data and correspondence submitted to the City in connection with the IS/MND, MMRP, and the Project; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment periods relating to the IS/MND, MMRP, and the Project; (7) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

Section 3. Findings

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

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

Facts in Support: The Project Site is assigned the Low Density Residential (R1) land use designation of the 1996 Novato General Plan ("General Plan"). The R1 land use designation applies to areas appropriate for single-family residential uses. The proposed rezone, which would

change the zoning from PD to R1-10, would be consistent with the R1 General Plan Land Use designation. The Amendment would not conflict with any goal, objective, policy, or program of the Novato General Plan. As set forth in Exhibit B, attached hereto and incorporated herein by reference, the Amendment would be consistent with and further applicable policies of the 1996 Novato General Plan. Based on these observations, the Amendment is considered to be internally consistent with the Novato General Plan.

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

Facts in Support: City of Novato Community Development and Public Works staff have reviewed the Project and did not identify any aspects of the Amendment that would be detrimental to the public interest, health, safety, convenience, or welfare of the City. Additionally, the Project was referred to emergency service and utility providers for review and comment. Emergency service and utility providers did not identify any site-specific conditions that would result in adverse impacts.

Additionally, the City has drafted an IS/MND to analyze potential impacts to the environment from the proposed Project. The CEQA analysis covers the 20 topical areas and mandatory findings of significance. The analysis did identify potentially significant impacts to Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, and Noise, however, adequate feasible mitigation measures are proposed to reduce those potential impacts to a less than significant level. The CEQA analysis did not identify any Project components that would result in detrimental impacts to the City or general public.

Additionally, the City has uniform development policies and standards, including but not limited to, ordinances regarding parking, woodland and tree preservation, landscaping, and general performance standards, applicable to the Project Site. Based on the conclusions and recommended mitigation measures referenced in the IS/MND, the Project and the subsequent construction and operation of the Project would not be detrimental to the health, safety, convenience, or welfare of the public, including future occupants, nearby residents and workers, and the City's residents at large.

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

Facts in Support: The Amendment was reviewed for suitability regarding physical constraints, access, compatibility with adjoining land uses, and provisions of utilities. The proposed rezoned to the R1 zoning district is compatible with the surrounding land uses and the R1 General Plan land use designation applicable to the Project Site. The proposed rezone from PD to R1-10 will not change the allowable intensity of development or residential land uses at the site since the R1 General Plan land use designation is not proposed to change.

The Project Site is located in the Bahia neighborhood, which includes a mix of single-family residential uses developed under the R1 General Plan use designation and open space lands. There are single-family residential uses to the south and east of the Site and open space lands to the immediate west and north across Bahia Drive. Beyond the open space to the west and southwest, there are additional single-family residential land uses. The uses allowed with the proposed R1-10 zoning are consistent with the existing surrounding single-family residential land uses. Additionally, the R1 zoning district is not incompatible with the open space lands and is commonly assigned to properties near open space areas.

The site is immediately adjacent to and accessible by Bahia Drive, a public street. The North Marin Water District is able to provide water service to the lots with an extension of water lines and laterals and new sewer lines and laterals can accommodate wastewater. A new 8-inch water line along Bahia Drive will connect to existing water lines to the east and west, and a new 8-inch sanitary sewer line will connect to an existing sewer line near Topaz Drive to the east.

An IS/MND was prepared for the Amendment at issue herein and the other development entitlements required for the Project. The IS/MND analysis determined that although development under the Amendment and, more specifically, 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.

Based on the facts discussed above, the Project Site to which the Amendment would apply is considered to be physically suitable to support single-family residential development that can occur under the R1-10 zoning district and, more specifically, that proposed with the broader Project.

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 amend the Zoning Map from PD to R1-10 at the Project Site identified as APN 143-151-06, subject to the following conditions of approval.

Section 4. Indemnity and Time Limitations

- a. The Applicant, 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 action(s) at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the property owner, and/or any successor(s) in interest, the City, and/or parties initiating or bringing such action.
- b. The Applicant, property owner and any successor in interest, whether in whole or in part, to either of them, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document,

if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.

- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the Applicant, property owner, and/or any 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, property owner, and/or any successor(s) in interest in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the Applicant, property owner, and/or any successor(s) in interest.
- d. The Applicant, 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 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 9th day of August 2021, by the following vote:

AYES: Commissioners Derby, Gerber, Havel, and Heath

NOES: Commissioners Tiernan and Farac

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 – Zoning Map Exhibit, Bahia Drive, APN 143-151-06

Exhibit B – General Plan Consistency Findings

Reference: P2018-080

EXHIBIT A
ZONING MAP AMENDMENT EXHIBIT

CURRENT ZONING: PLANNED DISTRICT (PD)

PROPOSED ZONING: LOW DENSITY RESIDENTIAL, 10,000 SQUARE-FOOT MINIMUM LOT SIZE (R1-10)

APN: 143-151-06

SITE AREA: 6.87± ACRES



EXHIBIT B

BAHIA RIVER VIEW ZONING MAP AMENDMENT, TENTATIVE SUBDIVISION MAP, AND DESIGN REVIEW

NOVATO GENERAL PLAN CONSISTENCY FINDINGS

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

NOVATO 1996 GENERAL PLAN

LAND USE CHAPTER

LU Policy 1 Implementation of Land Use Map. Implement the Land Use Map (Map GP-1) and Land Use Designations (Table GP-3) by approving development and conservation projects consistent with adopted land use designations, densities and intensities. Ensure consistency between the General Plan, Zoning Ordinance and other land use regulations.

Facts in Support: The Project Site is designated Low Density Residential (R1) on General Plan Land Use Map GP-1. Single-family residences are an allowed use on parcels assigned the R1 land use designation. The Amendment and Project are proposed to accommodate single-family residential uses consistent with the R1 land use designation.

Based on the facts above, the Project is consistent with and advances LU Policy 1.

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.

The density and intensity ranges in LU Table 2 will be applied to a site's gross acreage, i.e., to the total site including land area that will subsequently be used for public rights-of-way or retained in an undeveloped state to preserve environmental resources. See also LU Policy 4 and associated comment.

Facts in Support: The allowable density range of the R1 land use designation is 1.1 to 5 units per acre. The gross density of the Project is 0.72 units per acre based on the total area of the Project Site. However, the net density, factoring for General Plan policies regarding hillside locations and density reduction standards of the Hillside Ordinance, is 2.9 units per acre based on a net developable land area of 1.72 acres. The net density is within the allowable density range and is consistent with the R1 land use designation.

The City completed environmental review for the Project pursuant to the California Environmental Quality Act (CEQA). The Initial Study/Mitigated Negative Declaration (IS/MND) did not identify any potential environmental impacts that could not be mitigated to a less than significant impact. The proposed lots are consistent with the R1 land use designation and the proposed R1-10 zoning district. The lots are a similar size in size to the existing residential lots located in the Bahia neighborhood.

Based on the observations above, the Project is consistent with LU Policy 2.

LU Policy 5 Compatibility with Surroundings. Ensure that clustered development is compatible with the surrounding residential neighborhoods. Compatibility is to be determined by the appropriate City authority judging a development project, based on appearance, use characteristics, proximity, and other factors. Compatibility does not require, in the case of two residential neighborhoods, that housing type, lot size, or density be the same. Rather, visual conflict, interference with established use, and negative physical impacts are to be avoided.

Facts in Support: The proposed rezone and 5-lot subdivision would result in lot sizes that range from 0.36 to 4.11 acres. The smaller lots are located closer to the existing residential uses near the Bahia Drive and Topaz Drive intersection, with the larger lots located on the western portion of the Project Site that is adjacent to the City of Novato open space lot. The proposed density is consistent with the R1 General Plan land use designation assigned to the site and consistent with the proposed rezone to the R1-10 zoning district. It is anticipated that 5 single-family residences and ancillary uses will be developed on the 5 lots. The anticipated single-family residential uses at the proposed density is consistent with the existing land uses in proximity to the Project Site, which includes single-family residential uses to the east and south and open space to the immediate north (across Bahia Drive) and west.

The IS/MND considered the potential visual impacts of the Project in the Aesthetics section of the document. It was determined that, while the introduction of new development at the Project Site will change the current landscape, the result will be a less than significant impact. New residences at the site will not eliminate views of the Petaluma River, San Pablo Bay, or the hills in the distance.

Based on the observations above, the Project is consistent with LU Policy 5.

LU Policy 8 Development to Pay Fair Share. Require new developments to pay their fair share of infrastructure improvements and public service costs to maintain infrastructure capacity and service levels in the City, to the extent allowed by law and except as provided by other policies and programs in this Plan.

Facts in Support: The Project and future development at the site will be required to pay development impact fees, park in-lieu fees, and other fees associated with new residential development. Payment of said fees is considered to be consistent with LU Policy 8.

LU Policy 9 Constraints Analysis. Assess environmental constraints when considering development of lands with high environmental value or significant hazards. Encourage development sponsors to use such Constraints Analysis in designing their projects, to avoid unnecessary expense in redesigning their project to incorporate the issues defined by Constraints Analysis. The Constraints Analysis expands the City's current development analysis on property. The property owner is being provided the option of submitting the Constraints Analysis prior to submittal of the project application and environmental documentation or submitting it with the environmental documentation. The Constraints Analysis is an analysis in addition to that required by CEQA.

Facts in Support: The City prepared a IS/MND analysis to determine if the Project would have a potentially significant impact to the environment, however, the analysis concluded that adequate mitigation measures are feasible to reduce potential impacts to a less than significant level.

Based on the observations above, the Project is consistent with LU Policy 9.

TRANSPORTATION ELEMENT

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

Facts in Support: The tentative subdivision map that is being considered with the Project includes a sidewalk that would connect to an existing sidewalk located on Bahia Drive near its intersection with Topaz Drive along the site frontage. The Novato Municipal Code includes development standards for the design and placement of sidewalks, and a process for exception requests from said standards. The Applicant has requested an exception to the sidewalk requirement. The Applicant has proposed to construct a sidewalk but terminate the sidewalk short of the western site boundary, near where development on Lot 1 would be permitted. This would result in the sidewalk ending approximately 275 feet from the western site boundary. Granting the exception request is inconsistency with this policy. However, providing a fully connected sidewalk is consistent with TR Policy 22.

Based on the observations above, the Project is consistent with TR Policy 22.

TR Policy 28 Airport Land Use Plan. Support safety provisions of the Airport Land Use Plan. (See Safety Chapter).

Facts in Support: The Project Site is located within the Gness Field Airport Land Use Plan area and is located in the "Overflight Zone" of the Aviation Safety Zones detailed in Figure 3.1 (Gness Field Airport Land Use Plan (1991) ("Plan")). The Overflight Zone is defined as immediately outside the Traffic Pattern Zone; aircraft are still climbing out and/or descending in this area, but the risks this far from the Airport are minimal. The Project Site is not located in the flight tracks or the noise contours, as identified on Figure 3.2 of the Plan. According to the Plan, residential development should be limited to four dwelling units per gross acre in the Overflight Zone. The Project has a gross density of 0.72 units per acre, which is consistent with the limits on development. Additionally, allowable building heights of 25 feet will not conflict with airport operations.

The Project was reviewed by the Marin County Airport Land Use Commission (ALUC) on July 12, 2021. The Commission determined that the Project is consistent with the Plan.

Based on the observations above, the Project is consistent with TR Policy 28.

HOUSING ELEMENT

HO Policy 1.3 Neighborhood Meetings. Continue to require developers of any major project to have neighborhood meetings with residents early in the process to undertake problem solving and facilitate more informed, faster and constructive development review.

Facts in Support: The Applicant held a neighborhood meeting April 24, 2017, at the Bahia HOA clubhouse.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with HO Policy 1.3.

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.

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 Site is in area that is developed with single-family residential uses.

The application of the R1-10 development standards, Hillside and Ridgeline Protection Ordinance standards, and other applicable Novato Municipal Code standards will ensure that the Project fits into the neighborhood context. Additionally, a condition of approval will require design review approval of new residences at the Project Site. The design review process will give the public the ability to review proposed building plans prior to the issuance of building permits at the site.

The Project Site is listed in Table 46, Available Land Inventory, as a site for up to 8 new residential dwellings. The Project includes 5 lots that can accommodate 5 primary residential dwellings, the Project will contribute to the City's housing stock and assist with the City's Regional Housing Needs Assessment (RHNA) allocation. The City is tasked with developing 167 above moderate-income dwellings, and it is anticipated that the future homes at the Project Site will be priced at the above moderate-income level. As of January 1, 2021, the City needs to produce 21 additional above-moderate dwelling unit to satisfy the City's RHNA allocation for that income category by December 31, 2022.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with HO Policy 3.2 and 3.3.

COMMUNITY IDENTITY

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

Facts in Support: The proposed rezone and 5-lot subdivision would result in lot sizes that range from 0.36 to 4.11 acres. The smaller lots are located closer to the existing residential uses near the Bahia Drive and Topaz Drive intersection, with the larger lots located on the western portions of the site that is adjacent to the City of Novato open space lot. The proposed density is consistent with the R1 General Plan land use designation assigned to the site and consistent with the proposed rezone to the R1-10 zoning district. It is anticipated that 5 single-family residences and ancillary uses will be developed on the 5 lots. The anticipated single-family residential uses at the proposed density is consistent with the existing land uses in proximity to the site, which includes single-family residential uses to the east and south and open space to the immediate north and west.

The IS/MND considered the potential visual impacts of the proposed Project in the Aesthetics section of the document. It was determined that, while the introduction of new development at the site will change the current landscape, the result will be a less than significant impact.

Based on the observations above, the Project is consistent with CI Policy 1.

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

Facts in Support: While specific landscaping has not been proposed at this time, the City and North Marin Water District require that landscaping include low water use and drought-tolerant plant

types. Additionally, the Novato Fire Protection District (NFPD) has landscaping standards for houses that are located in a Wildland Urban Interface (WUI). A condition of approval regarding the submittal of a Vegetation Management Plan is included to conform to NFPD landscaping standards. When residences are proposed at the site, the City will have the ability to review proposed landscaping as part of the required design review process.

Based on the facts set forth above, and the Record as a whole, the Project is consistent with CI Policy 7.

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

Facts in Support: New utilities associated with the Project will be placed underground; based on this information, the Project is consistent with CI Policy 9.

CI Policy 25: Architectural and Landscape Design. Require attractive architectural and landscape design for all new developments as well as for expansion to existing uses, consistent with Downtown Specific Plan guidelines.

Facts in Support: The Project Site is adjacent to the Bahia neighborhood, with residential uses located south and east of the site on Topaz and Malobar drives and west of the site on Cerro Crest and Laguna Vista drives. Marin County Open Space and City of Novato Open Space are located north and west of the site. The proposed five lots are similar in size to the residential lots located in the vicinity. Future residences proposed at the Project Site will require design review approval, and those residences will be required to comply with the City's Hillside and Ridgeline Protection Ordinance, and other development standards applicable to the R1-10 zoning, R1 General Plan land use designation, and other codified development standards.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with CI Policy 25.

CC Policy 30: Archaeological Resources Protection. Continue to protect archaeological resources.

Facts in Support: An IS/MND was prepared for the Project, which includes an analysis of potential impacts to archaeological resources. Due to the potential for unknown archaeological resources that may be discovered during construction activities, mitigation measures MM-CUL-1, MM-CUL-2, and MM-GEO-2 are proposed to reduce those potential impacts to a less than significant level.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with CI Policy 30.

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

Facts in Support: Public art will be required to be placed on-site or payment of an in-lieu fee will be required. For residential projects, the City's Art Program (NMC Division 19.21) requires art

on-site or a payment equal to one third of one percent (0.33 percent) of construction costs. The Applicant has indicated that payment of an in-lieu fee will be requested at the time of construction. A condition of approval is recommended to ensure compliance with this policy. Compliance with Division 19.21 will ensure consistency with CI Policy 32.

ENVIRONMENT CHAPTER

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

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: The Project includes stormwater retention areas for the proposed 5 lots at the site. Since buildout is unknown at this time, the Applicant's engineer conservatively estimated the area required for storm-water retention. When site-specific plans are developed for each of the 5 lots, development-specific stormwater retention areas will need to be developed consistent with the City's stormwater management guidelines. The City Engineer will ensure that proposed stormwater retention can adequately accommodate stormwater associated with future development. Additionally, the CEQA IS/MND includes an analysis of the Project's potential impacts to water quality. Two feasible mitigation measures are proposed MM-GEO-1 and MM-HAZ-1 that would reduce potential impacts to water quality to a less than significant effect.

Based on the observations above, the Project is consistent with EN Policies 7 and 37.

EN Policy 13 Views. Encourage protection of visual access to the San Pablo Bay Shoreline and the Petaluma River. EN Map 3, Scenic Resources.

EN Policy 27 Scenic Resources. Protect visual values on hillsides, ridgelines, and other scenic resources.

Facts in Support: The lower portion of the Project Site is located within a Scenic Conservation Area as identified on General Plan Map EN 3, Scenic Resources. Accordingly, Novato Municipal Code Section 19.20.080 (Scenic Resource Protection) and Division 19.26 (Hillside and Ridgeline Protection) includes criteria applicable to the Project that addresses the Scenic Conservation Area designation. The Project was reviewed against applicable zoning standards and meets objective design criteria. For specific details supporting this position, refer to the staff report regarding consistency with the Novato Zoning Code.

Based on this review, the subdivision is considered to be consistent with EN Policies 13 and 27.

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

Facts in Support: The City prepared an IS/MND for the Project. The CEQA analysis did not identify any potentially significant impacts to species diversity or habitat that could not be reduced

to a less than significant impact through feasible mitigation measures. The IS/MND acknowledged the Project's construction could potentially impact nesting birds and roosting bats. As a result, Mitigation Measures BIO-1 and BIO-2 were recommended to require a pre-construction nesting bird and roosting bat surveys and specifies actions to be taken if nesting birds are present, such as establishing an adequate buffer from construction as recommended by a qualified biologist. Mitigation Measure BIO-1 and BIO-2 have been applied to the Project as a condition of approval. Compliance with this condition will be monitored pursuant to the Mitigation Monitoring and Reporting Plan prepared for the Project.

Based on the observations above, the Project is consistent with EN Policy 18.

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

EN Policy 25: Trees on Private Property. Encourage and, where appropriate, require actions by private property owners to protect the health of native woodlands and trees.

Facts in Support: The arborist's report identified 78 trees in the northern portion of the site that could be impacted by development. The City's Woodland and Tree Preservation Ordinance (NMC Division 19.39) implements policies 23 and 25. The ordinance includes standards for tree retention and mitigation, including the retention of 75 percent of existing native trees and at least a 3:1 replacement when trees are proposed for removal. Based on a review of the arborist's report and lot configuration, conformity with this policy and Division 19.39 is feasible. A condition of approval will require that when development plans for the residences are submitted for design review, compliance with NMC Division 19.39 will need to be demonstrated.

Based on the observations above, the Project is consistent with EN Policy 23 and 25.

EN Policy 28: Energy Conservation Consider land use patterns and policies that promote energy conservation.

EN Policy 31: Development Review Process. Consider energy conservation in the development review process.

Facts in Support: The proposed lot configuration associated with the Project will provide southern exposure for the future residences and the potential for both passive and active solar energy production. Based on the observations above, the Project is consistent with EN Policies 28 and 31.

SAFETY AND NOISE CHAPTER

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: The IS/MND prepared for the Project includes an analysis of potential impacts to slope and soil instability. Additionally, the Applicant submitted a geotechnical report that includes recommendations regarding development on the lots. Based on the findings of the geotechnical report and site conditions, Mitigation Measure GEO-1 is proposed to ensure that

future development at the site does not adversely impact slope instability. Additionally, at the time of building permit submittal for future development, a site-specific soils report will be required as part of the building permit review process.

Based on the observations above, the Project is consistent with EN Policies 28 and 31.

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 (NFPD) for review and comment. The NFPD identified the site as being located in a Wildland Urban Interface (WUI) and subject to building code and vegetation management requirements associated with the WUI. NFPD provided the City with recommended conditions of approval that reflect NFPD development standards for the Project Site, including the requirement for a vegetation management plan and a residential fire sprinkler system for the future residences. Additionally, the CEQA IS/MND included an analysis of Wildfire risk at the site, and did not identify any significant, unavoidable impacts.

Conformance with SF policies 16 and 17 will be implemented through the design review and building permit process required prior to development on the five lots. Conditions of approval will ensure compliance with these policies.

SF Policy 19: State Building Code. Continue to enforce the State Building Code (UBC).

Facts in Support: Construction of new structures will require building permits consistent with the California Building Code regulations in effect at the time a building permit is submitted. Based on this requirement, the Project will comply with SF Policy 19.

SF Policy 35: Gross Field Airport Hazards. Minimize risk to lives and property due to hazards associated with the operation of Gross Field Airport.

Facts in Support: The Project Site is located within the Gross Field Airport Land Use Plan area and is located in the “Overflight Zone” of the Aviation Safety Zones detailed in Figure 3.1 (Gross Field Airport Land Use Plan (1991) (“Plan”). The Overflight Zone is defined as immediately outside the Traffic Pattern Zone; aircraft are still climbing out and/or descending in this area, but the risks this far from the Airport are minimal. The Project Site is not located in the flight tracks or the noise contours, as identified on Figure 3.2 of the Plan. According to the Plan, residential development should be limited to four dwelling units per gross acre in the Overflight Zone. The Project has a gross density of 0.72 units per acre, which is consistent with the limits on development. Additionally, allowable building heights of 25 feet will not conflict with airport operations.

The Project was reviewed by the Marin County Airport Land Use Commission (ALUC) on July 12, 2021. The Commission determined that the Project is consistent with the Plan and

recommended that the City include a condition of approval requiring an aviation easement regarding aircraft noise for the proposed lots.

Based on the observations above, the Project is consistent with SF Policy 35.

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].

Facts in Support: The IS/MND includes a noise analysis. The noise analysis concluded the Project would not generate noise in excess of the compatibility standards detailed in General Plan Table 3 based on the residential standards applicable to the Project Site. Additionally, the City's Municipal Code includes noise standards that implement the City's General Plan. City staff will review future development applications for compliance with NMC Section 19.22.040 and Section 19.22.070 to ensure that noise generating uses, especially electrical and mechanical equipment, are placed in a location and sound attenuated to an acceptable level, consistent with the Municipal Code and General Plan.

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

