

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2021-009

RESOLUTION OF THE NOVATO PLANNING COMMISSION
RECOMMENDING THE NOVATO CITY COUNCIL DENY A
TENTATIVE SUBDIVISION MAP TO CREATE 5
RESIDENTIAL LOTS ON A 6.8-ACRE SITE LOCATED ON
THE SOUTHERLY SIDE OF BAHIA DRIVE (APN 143-151-06)

WHEREAS, the City of Novato ("City") received a Tentative Subdivision Map (TSM) application (P2018-079) submitted by Bahia Lands, LLC ("Applicant") proposing to create 5 residential lots, on a 6.8-acre site located on the southerly side of Bahia Drive, APN 143-151-06 (hereafter "TSM"); and

WHEREAS, the Applicant has requested an exception request to a development standard regarding the sidewalk requirement pursuant to Novato Municipal Code (NMC) Section 5-3.010; and

WHEREAS, in addition to the application for a Tentative Subdivision Map (TSM), the Applicant has also submitted applications for a zoning map amendment (rezone) and design review (collectively, the "Project"); 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, 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, by separate resolution, the Planning Commission did recommend the City Council adopt a Mitigated Negative Declaration for the project entitlements and the construction and operation of the Project, and did consider the IS/MND prior to taking action on the Project; 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 Zoning Code Section 19.40.070D; and

WHEREAS, on July 19, 2017, the Novato Design Review Commission conducted a publicly noticed workshop to review the design aspects of the Project; and

WHEREAS, on September 18, 2019, the Novato Design Review Commission conducted a publicly noticed hearing to consider providing a recommendation to the Planning Commission and City Council regarding the design aspects of the Project; and

WHEREAS, on September 18, 2019, the Design Review Commission adopted a motion recommending the Planning Commission and City Council deny the design aspects of the Project; 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 Tentative Subdivision Map (TSM) 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 Project 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, the Project, and; (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 and 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

Tentative Subdivision Map

The Planning Commission hereby recommends the City Council deny the TSM due to inconsistencies with the Novato Zoning Ordinance, pursuant to finding b. as required by Section 9-7.002.e.2 of the Novato Municipal Code:

- b. The proposed subdivision is consistent with the Zoning Ordinance and any master plan or precise development plan adopted pursuant thereto;

Facts in Support:

The Project has been reviewed for consistency with Novato Municipal Code Chapter 19, *Zoning*, Chapter 5, *Development Standards*, and Chapter 9, *Land Subdivision*. Chapter 5 includes development standards for lot size and configuration, 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 vesting tentative map submittal requirements. Chapter 19 includes standards for minimum lot size, minimum lot dimensions, and the creation of new parcels on properties subject to Novato Hillside and Ridgeline Protection Ordinance (NMC Division 19.26).

The Novato Planning Commission determined the TSM’s design is not consistent with Novato Municipal Code Section 19.26.050, subsections G.2, G.3, and G.4 regarding lot configuration on hillside lots on the basis the entirety of project site’s frontage with Bahia Drive represents a ridgeline. As a result, the Commission determined the proposed lot layout would result in grading or building within 25-vertical feet of the top 5-foot contour of a ridgeline or knoll; that lots would be created with building envelopes that would allow structures within 25 feet of the top 5-foot contour of a ridgeline or knoll; and that lots would be created where the average slope within the building envelopes would exceed 25 percent. Based on this determination, the proposed TSM is not consistent with Finding b.

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: Chair Farac, Commissioner Havel, and Vice Chair Tiernan
- NOES: Commissioners Derby, Gerber, and Heath
- 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