

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2021-010

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL APPROVE THE DESIGN REVIEW FOR THE BAHIA RIVER VIEW PROJECT, LOCATED ON BAHIA DRIVE; APN 143-151-06

WHEREAS, the City of Novato ("City") received a design review application (P2017-023) submitted by Bahia Lands, LLC ("Applicant") for a 5-lot residential subdivision ("Project"), located on Bahia Drive, APN 143-151-06, ("Project Site"); and

WHEREAS, the Applicant is requesting approval of a design review application pursuant to Novato Municipal Code (NMC) Section 19.42.030, which establishes procedures for the review and approval of a design review application; and

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

WHEREAS, the City determined the Project are 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 CEQA IS/MND prior to taking action on the Project and Project Entitlements; and

WHEREAS, on April 24, 2017, 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 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 and Project Entitlements 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, 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 Zoning map Amendment at issue herein; and

NOW, THEREFORE, BE IT RESOLVED, the Planning Commission hereby recommends that the City Council 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 and Project Entitlements 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 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

Design Review

Pursuant to Novato Municipal Code Section 19.42.030.F, the Planning Commission hereby recommends that the City Council make the following findings:

Design Review Finding No. 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 [zoning] code, including this title and any approved master plan and precise development plan.

Facts in Support: The Project is consistent with all applicable General Plan policies, as documented in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A lists each applicable policy of the General Plan and details facts supporting the Project's consistency therewith, including the Design Review at issue herein.

Novato Zoning Ordinance

The Project includes a rezone to the R1-10 zoning district. The analysis below is based on the Project's consistency with the R1-10 zoning district development standards of Zoning Ordinance Section 19.10.040. The Project conforms to the City's development standards. The following table lists key development standards applicable to the Project and where a waiver or reduction to said standard is requested.

Table 1. Low Density Residential (R1-10) Development Standards and Project Compliance

Development Feature	Zoning Development Standards	Project Compliance*
Minimum Lot Size	10,000 square-foot (SF) minimum	Yes; 15,579 – 179,187 SF lots
Minimum Width	75 ft.	Yes; 100+ ft.
Minimum Depth	100 ft.	Yes; 100+ ft.
Front	20 ft.	Yes; Tentative map shows minimum setback lines.
Sides	10 ft.	Yes; Tentative map shows minimum setback lines

Rear	20 ft.	Yes; Tentative map shows minimum setback lines.
Building Coverage	40% maximum	Yes; Adequate lot area is proposed to accommodate structures.
Height limit	25 ft. (Hillside)	Yes; Applicant has adequately demonstrated the ability to construct residences under the maximum.

*The proposed project does not include the development of residential dwellings. Design review will be required when residences are proposed at the Project Site. Staff will review said homes at that time to ensure consistency with the maximum building coverage and maximum floor area ratio. Maximum home size will be dictated by the Hillside and Ridgeline Protection Ordinance. In addition, the Hillside and Ridgeline Ordinance would apply a 25-foot height limit to a future residence.

Hillside and Ridgeline Protection Ordinance (Hillside Ordinance)

Supplemental Design Review Findings

The following supplemental design review findings are required for sites with average slopes over 10 percent. A discussion and analysis of the Hillside Ordinance design criteria follows the four findings for the Commissioners' consideration.

- A. The design, scale, massing, height and siting of development is compatible with the character and scale of the surrounding, developed neighborhood.
- B. The design and site layout of the hillside project is respectful of and protects the natural environment to the maximum extent feasible.
- C. Site grading has been designed to be as minimal as possible to achieve sensitive hillside design, minimize tree removal, and provide safe site access and required parking.
- D. The hillside project is designed and sited to screen development, to the extent feasible, through clustering and/or avoiding of highly visible hillsides, ridgelines, and knolls.

The Hillside Ordinance, codified in NMC Division 19.26, includes regulations for the creation of lots through the subdivision process and development standards and limitations on the subsequent development of said lots. The Hillside Ordinance includes density reductions based on the average slopes of the existing, pre-development lot. Table 2, below, includes the reduction factors specific to the Project Site. The net acreage based on the slope reduction factor for the site is 1.72 acres. The net density of the project is 2.9 units per acre, consistent with the allowable 1.1-5 units per acre prescribed for the Low-Density Residential land use designation.

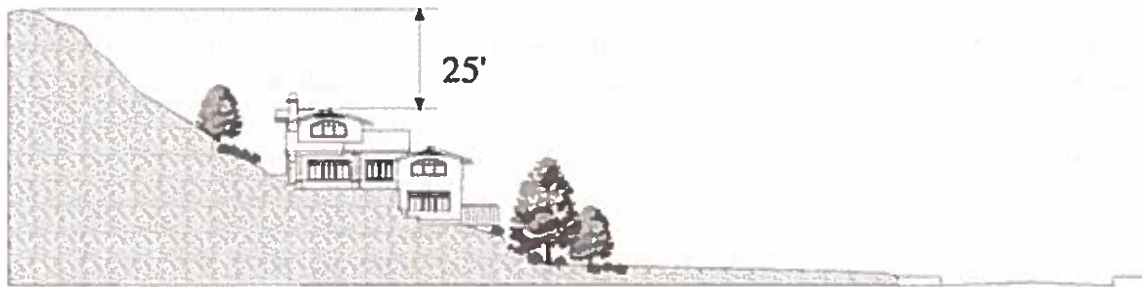
Table 2. Allowable Density and Floor Area Ratio based on site slope*

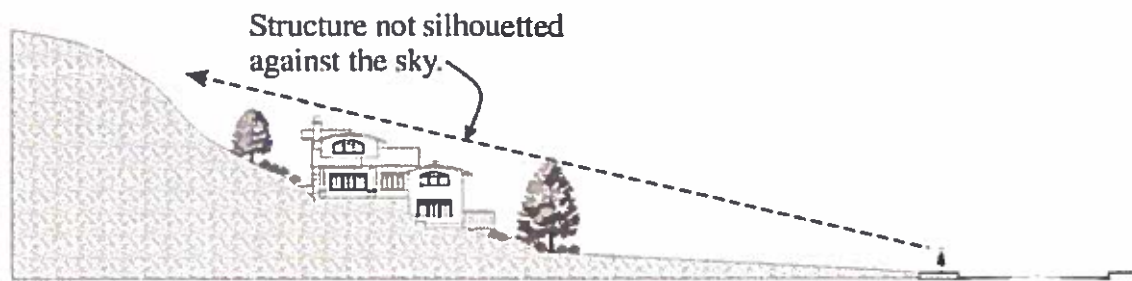
Land Use Designation	Average Slope Range	Percent Reduction in Allowable Units	Reduction Factor	Area (Acres)	Net Acres
Low Density Residential (R1)	0% to 10%	None	None	1.46	1.46
	10% to 25%	60%	0.4	0.64	0.26
	Greater than 25%	100%	0.0	4.77	0.0
	Total			6.87	1.72

*Excerpt from Table 3-6 and Applicant's Slope Analysis (see Sheet TM-3)

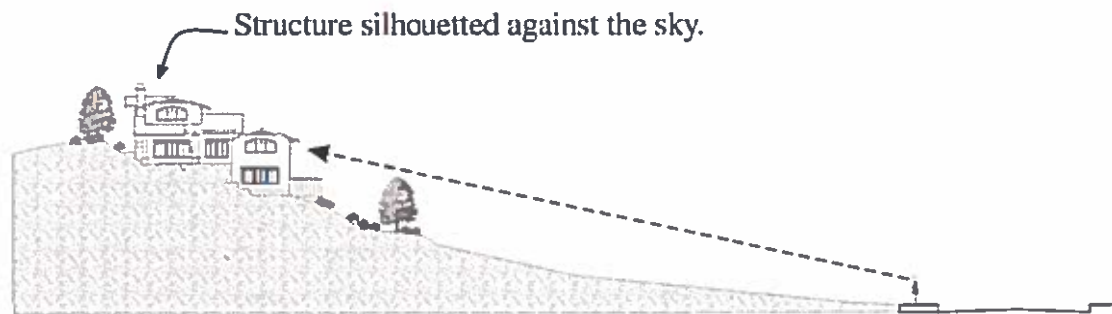
Ridgeline

Novato Municipal Code Section [19.26.050.J \(Siting and Height Limitations\)](#), includes regulations regarding the siting of structures and height of structures adjacent to ridgelines. The Project Site includes a ridgeline, identified as the 150-foot contour line near the westerly edge of proposed Lot 1. A residence adjacent to the identified ridgeline shall have a minimum 25 feet of vertical separation from the ridgeline, meaning that the future residence located on Lot 1 cannot have a roof peak greater than 125 feet above sea level. Plan Set Sheet A0.1 includes a site section that depicts a "potential building" on Lot 1 that has a roof peak at the 125-foot elevation. Additionally, the structure on Lot 1 shall not be placed so that the structure is silhouetted against the sky when view from a public street. The siting of a future residence on the lower graded pad of Lot 1, would ensure that the residence will not silhouette the sky against the backdrop of the ridgeline. The three images below and on the following page are excerpts from the Hillside Ordinance (Figure 3-11), which demonstrate the siting requirements for structures adjacent to ridgelines. The proposed lot configuration is consistent with the ridgeline siting and height limitation regulations.





THIS



NOT THIS

Hillside Development Design Criteria ([NMC Section 19.26.040](#))

- A. **Terrain Alteration.** The project should be designed to fit the terrain rather than altering the terrain to fit the project. Development patterns that require excessive cuts or fill, form visually protruding horizontal bands or steeply cut slopes for roads or lots shall be avoided.

Facts in Support: The Applicant is not proposing any terrain alteration with the propose land division. The 5 proposed lots were previously graded, resulting in - padded areas that can accommodate future residences without significant future grading. Lots 1 and 2 each have two separate padded areas that could be re-contoured to connect their respective pads. Such grading, if it were to occur, is not considered significant since the activity would involve already disturbed land. Upon approval of the subdivision, design review will be required for individual residences when houses are proposed. Further conformance with this standard will be verified at that time.

- B. **Structure Siting and Design.** Site design shall utilize varying setbacks, structure heights, split-level foundations, and low retaining walls and terraces to blend structures into the terrain. Front building setbacks shall be varied and staggered consistent with natural hillside character.

Facts in Support: This standard is not applicable to the proposed project. Design Review for individual residences will ensure conformance with this standard.

- C. Location of Structures. Structures should be located in the most accessible, least visually prominent, and most geologically stable portion or portions of the site. When feasible, place structures so that they will be screened by existing vegetation, rock outcroppings, or depressions in topography. Buildings and improvements should be located to save trees and minimize visual impacts. Additional native plant materials should be added to augment the screening qualities of existing vegetation, where appropriate.

Facts in Support: The Project Site is located in a manner making it visible from public vantage points in the Bahia neighborhood, including Bahia Drive, Cerro Crest Drive, Laguna Vista Drive and Topaz Drive. Given this circumstance and the site's topography, the proposed subdivision would create lots upon which future development would be visible from off-site public vantage points. This circumstance is consistent with existing development in the Bahia area that is currently visible from similar vantage points. The visibility of new development on the proposed lots is primarily a function of the home designs placed thereon, a matter that will be addressed at the time Design Review is completed for individual residences.

Future development on the proposed lots is envisioned to be located within the flat, padded areas of each lot. These areas represent the most geologically stable portions of the Project Site. Subdividing the property will not affect the geological stability of the Project Site. Future residences will require the preparation of a site-specific geotechnical report addressing site stability and drainage. This documentation will ensure the design of new residences will maintain the geological stability of the proposed lots.

The balance of the requirements of item C. will be addressed at the time design review is completed for individual residences.

- D. Retaining Walls. Tall and/or long retaining walls shall be avoided. Retaining walls shall be divided into terraces to reduce the individual heights of walls where practicable, with landscaping to screen them from view. Generally, no retaining wall should be higher than 8 feet.

Facts in Support: No retaining walls are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

- E. Exterior Lighting. Hillside development shall not create an array of bright lights. Lighting shall be properly designed to eliminate direct and off-site glare and the spill of light to surrounding areas. Site and building designs shall incorporate low-intensity exterior lighting. The use of low ground-level fixtures is encouraged, as opposed to the use of fewer, but taller fixtures.

Facts in Support: New light sources are not proposed with this land division. Design Review for individual residences will ensure conformance with this standard and Novato Municipal Code [Section 19.22.060 \(Light and Glare\)](#).

F. **Colors and Materials.** A harmonious mixture of materials, and colors, should be used to blend structures and site improvements with the natural hillside as follows:

1. Colors that emulate native vegetation and soils shall be used for exterior elevations and roofs. Darker, flat tones, such as, browns, black, greens and terra cotta shall be used for exterior siding and roofs in high-visibility areas. Light or bright colors shall be avoided; and

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

2. Surface materials and roofs should include a mix of rough textures to blend with the coarseness of landscaping and natural vegetation in hillside areas. Materials including but not limited to stucco, wood, brick, and coarse block are appropriate materials to use.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

G. **Architectural Design.** Structures shall be designed as follows:

1. Buildings and improvements shall be scaled to complement the hillsides and to avoid excessively massive forms that dominate views of the hills.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

2. Residential development on infill hillside lots shall be of a scale that is compatible with the existing adjacent neighborhood, and shall be designed to locate windows, balconies, and outdoor living areas with consideration for the privacy of adjacent dwellings and yards, to the maximum extent feasible.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

3. Building facades shall have varying vertical planes and overhangs shall be used as a means to create changing shadow lines to reduce the visual mass of forms. Building architectural elevations shall be stepped to follow the natural contour of the slope and to minimize building heights. See Section 19.26.050.J for building step back requirements.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

4. Wall surfaces visible from off-site on properties located within an area of Scenic Resource, [Section 19.20.080](#), as designated by the General Plan, shall be minimized in scale through such design features as: the use of single story elements, setbacks, roof pitches, and landscaping.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

5. Roof pitches shall generally be designed to follow the angle of the site slope; but variation may be provided to avoid a monotonous appearance.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

6. Structures with visible structural underpinnings that extend more than six feet above grade shall be avoided. Integrate structural underpinnings for decks, additions or foundation structures that exceed six feet in height into the design aesthetic of the building.

Facts in Support: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

Lot Configuration (NMC Section 19.26.050.G): The creation of new lots or the relocation of lot lines shall comply with the following standards:

1. Lots shall not be created which are impractical for improvement, due to steepness of terrain, geologic hazards, or location of watercourses or drainage.

Facts in Support: The proposed lots are configured to include the existing level pad areas, which are considered to be sufficiently sized to support a single-family residence and accompanying outdoor spaces. This observation is based on the net land areas within the padded areas of each lot. These areas are consistent in size to a standard single-family residential parcel, which range from approximately 5,000 to 10,000 sq. ft.

2. Lot layout shall be designed to avoid grading or building within 25-vertical feet of the top 5-foot contour of a ridgeline or knoll.
3. Lots shall not be created with building envelopes which would allow structures to project within 25-feet of the top 5-foot contour of a ridgeline or knoll.

Facts in Support: Lot 1 includes a ridgeline (toward Cerro Crest Drive). The Applicant has demonstrated that a residence can be constructed on Lot 1 conforming to the 25-foot vertical separation required by the Hillside Ordinance as indicated by Section A-A on plan sheet A0.1. Additionally, no grading would be required within 25 vertical feet of the identified ridgeline.

4. Lots shall not be created where the average slope within the building envelopes would exceed 25 percent for residential sites and 20 percent for non-residential sites.

Facts in Support: The Applicant has depicted building envelopes on the tentative map (Sheet TM-4 – see “Lot Summary Table”) that have an average slope of less than 25 percent. The building envelopes shown on sheet TM-4 are for example purposes to demonstrate compliance with the average slope requirement noted above. These building envelopes do not necessarily represent the definite location or extents of a future home or improvements on a given parcel.

5. Lot configurations shall be designed to minimize grading and preserve topographic and geologic features.
6. Lot configurations shall take into account natural landforms and vegetation to the greatest extent possible.

Facts in Support: The Applicant is not proposing any grading with the requested entitlements. Staff has reviewed the proposed lot configuration and determined that the proposed lots are buildable with minimal grading and natural topographic and geologic features can be preserved. Lots 1 and 2 each have two separate padded areas that could be re-contoured to connect these pads. Such grading, if it were to occur, would generally limit grading to disturbed areas of the site and avoid existing, natural areas of the property.

7. Lots shall be designed to avoid lot-to-lot drainage. Individual lots shall include the top of slope areas to the extent practicable to help reduce lot-to-lot drainage and facilitate any future slope maintenance.

Facts in Support: The proposed lot configuration conforms with this standard. Design Review will be required of future residences and will include consideration of drainage improvements.

Placement of Structures (NMC Section 19.26.050.H): Structures shall not be placed on average slopes exceeding 25 percent for residential development and 20 percent for non-residential development, to the extent feasible. Encroachment of building envelopes on slopes exceeding these percentages may be permitted by the review authority only where any of the following findings can be made:

1. It is substantially unfeasible to locate the proposed building inside the maximum percent slope area; or
2. Where such location would have a substantially more adverse effect on the environment; or
3. Where such location is deemed appropriate to facilitate clustered development; or
4. Measures are included that provide adequate mitigation of environmental impacts such as visual, biological and geotechnical impacts.

Facts in Support: The Applicant is not proposing to construct residences at this time. Future residences will be subject to demonstrating compliance with the placement requirements noted above the time of design review and through the subsequent building permit review process.

Setbacks Between Structures and Toes/Tops of Slopes (NMC Section 19.26.050.K): On adjacent lots having a difference in vertical elevation of three feet or more, the required side yard shall be measures from the nearest toe or top of slope to the structure, whichever is closer.

Facts in Support: Conformity with this requirement is depicted on Plan Set Sheet TM-4. Compliance with this standard will be confirmed at the time a future residence is reviewed through Design Review.

Based on the facts discussed above, the design of the Project is consistent with the applicable General Plan policies and Novato Zoning Code regulations. There is no master plan or specific plan applicable to the Project Site.

Design Review Finding No. 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.

Facts in Support: This Project's design is considered to conform with, and advance Design Review Finding No. 2 as follows:

Scenic Resources Protection Ordinance

Novato Municipal Code [Section 19.20.080 \(Scenic Resource Protection\)](#) include development standards intended to implement the scenic resource protection policies of General Plan Policies EN 27 and EN 27.1. The development standards codified in NMC Section 19.20.080.D, and an analysis of the Project conformity are detailed below:

1. *Protection of Existing Views.* Development and new land uses, or changes to existing structures or land uses shall not result in a change in the elevation of the land, or the construction of any improvement that would significantly or materially alter, or impair major views, vistas, viewsheds of major landforms from public roads, or public vantage points as described above .

Facts in Support: The proposed 5-lot subdivision is designed to utilize existing padded areas within each lot. It is estimated that only minimal grading of the existing disturbed land will be required when development is proposed on the individual lots. The upper elevations of the site are not proposed for development. The ridgeline on the site is at the 154-foot elevation; due to zoning code limitations, the highest roof peak permitted is at the 125-foot elevation. Based on the codified development standards, the upper portion of the site will not be developed.

Views across the Project Site will change since it is not possible to develop the property in a manner preventing the visibility of new development thereon. The proposed subdivision, in and of itself, would not result in any altered views. However, the design of future residences on the proposed parcels would modify views across the site from public vantage points, including site lines from Bahia Drive to the Petaluma River. Future residences will be subject to Design Review. At that time, an individual residence will be assessed with respect to preserving views to the extent feasible.

2. *Side Yard View Corridors.* Where side yards provide a public view from the street to the river or bay, or a view to hills or valleys, the side yards should be maintained as open visual access corridors. These areas shall be open to the sky and free from all visual obstructions including trees and shrubs (except for a gate or fence constructed of open materials that still allow the view) from the front property line to the rear property line. Existing structures are exempt from this requirement.

Facts in Support: Minimum side yard setbacks required by the Zoning Code will ensure that side yard view corridors are maintained, as applicable. Plan Set Sheet TM-4 depicts the side yard

setback applicable at the site assuming the property is rezoned to R1-10. Design review for individual lot development will further ensure compliance with Development Standard No. 2.

3. *Screening.* All industrial facilities, and public and private utilities shall be screened from the view of any public roadway to the maximum extent feasible. See also the screening requirements of [Section 19.20.090](#) (Screening).

Facts in Support: This is a residentially zoned site. Industrial facilities are not permitted at the site.

4. *Existing Topography.* Proposed development, including roads, shall minimize the alteration of the natural topography and scenic values of the area.

Facts in Support: The Project Site was altered in the 1960s, resulting in pads terraced down the hill parallel to, and adjacent to Bahia Drive. At least one graded pad is included within each proposed lot. Each proposed lot can be developed with a single-family residence with minimal alteration of the natural topography. Design review for each lot will be required in the future when development is proposed.

5. *Hillside and Ridgeline Backdrops.* The size, location, and massing of structures shall not significantly obscure views from Highway 101 and other public roads of the scenic backdrop provided by the hillsides.

Facts in Support: The Project Site is not located near Highway 101. Bahia Drive, a public street, is adjacent to the Project Site. Additional public streets in the vicinity include Topaz Drive and Malobar Drive.

As indicated by Section A-A on plan sheet A0.1, a future residence on Lot 1 would have a minimum of 25 feet between the highest roof peak and the ridgeline at the west end of the property, thereby maintaining views from public streets of the ridgeline.

6. *Landscaping.* Landscaping shall be designed to enhance existing scenic views.

Facts in Support: Landscaping is not proposed with the 5-lot subdivision. Landscaping will be reviewed with the required design review when development of each lot is proposed. Landscaping will also be reviewed for consistency with the development standards codified in NMC Section 19.20.080 (Scenic Resources Protection).

Design Review Finding No. 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.

Facts in Support: This Project is considered to conform with, and advance Design Review Finding No. 3 as follows:

The Project plans were referred to public agencies responsible for reviewing and providing services, including Novato Public Works, North Marin Water District, Novato Sanitary District, and Novato Fire Protection District. These agencies have submitted comments and/or conditions addressing matters such as pedestrian and bicycle access, adequacy of drainage facilities, and water and sewer service. While the construction level plans have yet to be prepared and submitted for final approval, none of the responsible agencies identified issues that would require significant changes to the site that, less addressed, represent a detriment to public health, safety, or welfare, nor be materially injurious to Project occupants, visitors and surrounding properties or improvements in the vicinity.

Additionally, the City prepared a CEQA IS/MND which analyzed the Project's potential impacts on the environment. The IS/MND did not identify any potential impacts that cannot be adequately mitigated to a less than significant level.

Section 4. Design Review Approval, Conditions of Approval, and Indemnity and Time Limitations

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the design review for the Project as shown on the plans prepared by CSW ST2 dated 11/12/2018, and Polsky Perlstein Architects dated 8/2/2019, included herein by reference, for the Project, based on the findings set forth herein and subject to the following conditions of approval:

1. The Applicant shall comply with the additional conditions of approval and Mitigation Monitoring and Reporting Program (MMRP) attached as Exhibit B and incorporated herein by reference.
2. Pursuant to NMC Division 19.26 and/or NMC Section 19.42.030, as may be amended from time to time, development of a residence on each of the five lots shall be subject to the City's design review and approval procedures and requirements prior to issuance of a building permit(s).
3. 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 decision 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, 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 Applicant, property owner, or any successor in interest 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 subdivisions 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 Applicant, property owner, and/or any 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, 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, Heath, and Tiernan

NOES: Commissioners Havel 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.

A handwritten signature in cursive script, reading "Rachel Farac", written in black ink.

Rachel Farac, Chair

Exhibit A General Plan Consistency Findings

Exhibit B Conditions of Approval and Mitigation Monitoring and Reporting Program

Reference: P2017-023

EXHIBIT A

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.

EXHIBIT B

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
Biological Resources					
MM-BIO-1	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	Project Contractor	City of Novato	Survey conducted within 15 days prior to commencement of ground clearing activities if commencement will occur between February 1 and August 31.	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

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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 of 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 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. 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
Geology and Soils					
MM-GEO-1	<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> <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>

Number	Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Mitigation Timing	Performance Evaluation Criteria
	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.				
Hazards and Hazardous Materials					
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	<p>Prior to commencement of construction</p> <p>Throughout construction</p>	<p>Attend pre-construction meeting</p> <p>Comply with required noise management practices</p>

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DRAFT MITIGATION MONITORING AND REPORTING PROGRAM

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. 				