

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2023-010

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE AN AMENDMENT TO THE NOVATO GENERAL PLAN TEXT REGARDING LAND USE POLICY LU 27 AND PROGRAM LU 27C AND AMEND THE LAND USE MAP TO CHANGE THE LAND USE DESIGNATION FROM BUSINESS AND PROFESSIONAL OFFICE (BPO) TO OPEN SPACE (OS), MEDIUM DENSITY RESIDENTIAL (R5), AND HIGH DENSITY MULTIPLE-FAMILY RESIDENTIAL (R20), ON AN APPROXIMATELY 38-ACRE SITE LOCATED ON THE WEST SIDE OF REDWOOD BLVD (APNS 125-580-34 AND 125-580-37)

WHEREAS, Novato General Plan 2035 was adopted by the City Council in 2020; and

WHEREAS, the City of Novato ("City") received an application (P2021-047) from Campus Properties ("Applicant") proposing to amend the text of Land Use Policy LU 27 of General Plan 2035 as applicable to Site 4 addressed therein and amend Land Use Map (Map GP-1) from Business and Professional Office (BPO) to 20± acres of Open Space (OS), 15.5± acres of Medium Density Residential (R5), and 2.5± acres of High Density Multiple-Family Residential (R20) on an approximately 38-acre site located on the west side of Redwood Blvd (APNs 125-580-34 and 125-580-37) (hereafter "Amendment"); and

WHEREAS, in addition to the application for the Amendment, the Applicant also submitted applications for a master plan, precise development plan, design review, vesting tentative map and development standards exceptions, and vacation of right of way (collectively "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, by separate resolution adopted prior hereto, the Planning Commission recommended the City Council adopt an Initial Study/Mitigated Negative Declaration ("IS/MND") for the Project, and considered the IS/MND prior to taking action on the Project, including the Amendment at issue herein; and

WHEREAS, on July 20, 2022, and January 18, 2023, the Novato Design Review Commission conducted a publicly noticed workshop to review the design aspects of the Project; and

WHEREAS, on September 21, 2022, and April 19, 2023, 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 21, 2022, and April 19, 2023, the Design Review Commission adopted motions recommending the Planning Commission and City Council approve 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 November 3, 2023, and published in the Marin Independent Journal, a newspaper of general circulation, on November 3, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on November 13, 2023, to consider and receive public testimony on the Project, including the Amendment at issue herein.

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings (“Record”) upon which the Planning Commission bases its recommendation includes, but is not limited to: (1) the Initial Study/Mitigated Negative Declaration, and the appendices and technical reports cited in and/or relied upon in preparing the Initial Study/Mitigated Negative Declaration for the Project, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the Initial Study/Mitigated Negative Declaration, the Project, and the Amendment (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 2035 General Plan and its related EIR and the Novato Municipal Code, (5) all designs, plans, studies, data and correspondence submitted by the City in connection with the Initial Study/Mitigated Negative Declaration, the Project, and the Amendment, (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the Initial Study/Mitigated Negative Declaration, the Project, and the Amendment (7) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

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

Section 3. Findings

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

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

Facts in Support: The Amendment would change the land use designation applicable to a 38-acre area from Business & Professional Office (BPO) to 20 acres of Open Space (OS), 15.5 acres of Medium Density Residential (R5), and 2.5 acres of High Density Multiple-Family Residential (R20). The area designated R5 would accommodate the Project’s proposed 61 single-family attached and single-family

detached residential units, along with the proposed junior accessory dwelling units (JADUs). The area designated R20 would accommodate the proposed 20 townhome-style multi-family condominium units. The area designated OS would not include any residential development and would be limited to the development of passive recreation uses, such as trails, and similar low-intensity activities.

The Amendment includes deleting text referencing development concepts based on the Project Site's current land use designation of BPO. This text is no longer necessary on the basis of the land use modifications described above. Accordingly, this element of the Amendment would maintain internal consistency between the General Plan and Land Use Map GP-1 as amended for the Project.

Based on the observation above, 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;

Facts in Support: City of Novato Community Development and Public Work Department 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 Amendment and the larger Project were referred to the Novato Fire Protection District, Novato Police Department, North Marin Water District, and Novato Sanitary District (i.e. emergency service and utility providers) for review and comment. Emergency service and utility providers did not identify any conditions resulting from the Amendment that would result in adverse impacts.

Additionally, a CEQA IS/MND has been prepared to analyze potential impacts to the environment from the Amendment and the associated Project. The CEQA analysis covers the topical areas and mandatory findings of significance specified in the CEQA Guidelines. The analysis identified potentially significant impacts to air quality, biological resources, cultural resources, geology and soils, noise, tribal cultural resources, and wildfire that could result from the Project associated with the Amendment. However, feasible mitigation measures are proposed to reduce those potential impacts to a less than significant level. Implementation of these mitigation measures through construction of the Project will reduce or avoid the potential for impacts detrimental to the public interest, health, safety, convenience, or welfare of the City. Accordingly, the Amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

3. The proposed amendment would further the goals, objectives, policies and programs of the General Plan;

Facts in Support: The Amendment supports the development of new housing at the Project Site at densities consistent with the R5 and R20 land use designations, including the provision of affordable housing. Accordingly, the Amendment advances the General Plan policy LU 1 and program LU 1b addressing land use and development intensity, as well as the policies and programs of Novato's 6th Cycle Housing Element (January 2024) aimed at providing additional housing opportunities in Novato. The Amendment preserves the sloped, oak woodland areas of the Project Site in their natural state by applying the OS land use designation. This circumstance advances General Plan policy and programs CC 3, CC 5, ES 3, ES 15, ES 15a, ES 20, and ES 22.

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

Facts in Support: The Project associated with the Amendment was presented to the Novato Design Review Commission on July 20, 2022, September 21, 2022, January 18, 2023, and April 19, 2023. The purpose of this review was to provide a recommendation to the Planning Commission and City Council regarding whether the Project's anticipated use and associated design components would be compatible with the Project Site and its surrounding context. The Design Review Commission's recommendation is intended to inform the Planning Commission and City Council's consideration of the Project, including the Amendment at issue herein.

On September 21, 2022, and April 19, 2023, the Design Review Commission adopted motions recommending the Planning Commission and City Council approve the site design, massing, and architecture proposed for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate mass/scale, and acceptable architecture. The Design Review Commission's recommendation was based on the required findings for Design Review, including applicable design related policies of the Novato General Plan.

The Amendment was reviewed for suitability regarding physical constraints, access, compatibility with adjoining land uses, and the provision of utilities. Based on this review, the residential and open space uses allowed by the Amendment can be adequately accommodated on the Project Site. Adequate access is proposed from Redwood Blvd to the Project Site. The Amendment was reviewed for compatibility with surrounding existing and planned land uses. Based on this review, the residential and open space uses allowed by the Amendment would not result in an incompatibility with adjacent land uses, including nearby residential neighborhoods. Necessary utilities to serve the land uses associated with the Amendment are readily available or can be extended to the Project Site as electric, potable water, recycled water, and wastewater utilities are located along the Redwood Blvd frontage.

A CEQA IS/MND was prepared for the Amendment at the associated Project. The IS/MND 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 the single-family and multi-family residential development that can occur under R5, R20, and OS land use designations.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission recommends the City Council adopt the Amendment as set forth in Exhibit A with respect to amending Land Use Map GP-1, attached hereto and incorporated herein by reference, and the following text amendments to the Policy LU 27 of the Great Places Chapter, as applicable to Site 4 addressed thereunder, subject to the indemnity and time limitations of the Section 4 below:

- LU 27:** North, North Redwood Corridor. Consider the following preferred land use concepts and design guidelines for the bounded area and individual sites depicted in Figure GP-8 in evaluating development and infrastructure proposals for the North, North Redwood Corridor.

~~Site 4 Preferred Land Use Concept. Research and development use and office buildings. Reserved.~~

~~Design Guidelines. Respect existing wetlands and oak trees in project design. Take into account slope stability and the presence of gas transmission pipelines in project design and siting of buildings.~~

Section 4. Indemnity and Time Limitations

1. Indemnity and Time Limitations

- a. The Applicant, property owner and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the 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 developer, the property owner, and/or any successors 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, 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 any successor 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 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 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 developer or property owner.
- d. The Applicant, property owner and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.

- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a regular meeting of the Planning Commission of the City of Novato held on the 13th day of November 2023, by the following vote:

AYES: Commissioners Crockett, Dawson, Derby, Havel, Engdahl, Heath, and Tiernan

NOES: None

ABSTAIN: None

ABSENT: None

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 13th day of November 2023.

Lia Heath

Chair

Attachments

Exhibit A – General Plan Land Use Map Amendment Exhibit

Reference: P2021-047

EXHIBIT A

REI

REI

BPO

BPO

R1

BPO: AHO

BPO

BPO

MEADOW CREST RD.

REDWOOD BOULEVARD

U.S. HWY 101

LEGEND:

- AHO AFFORDABLE HOUSING OVERLAY
- BPO BUSINESS/PROFESSIONAL OFFICE
- REI RESEARCH/EDUCATION – INSTITUTIONAL
- R1 LOW DENSITY RESIDENTIAL

EXISTING GENERAL PLAN DESIGNATION VALLEY OAKS

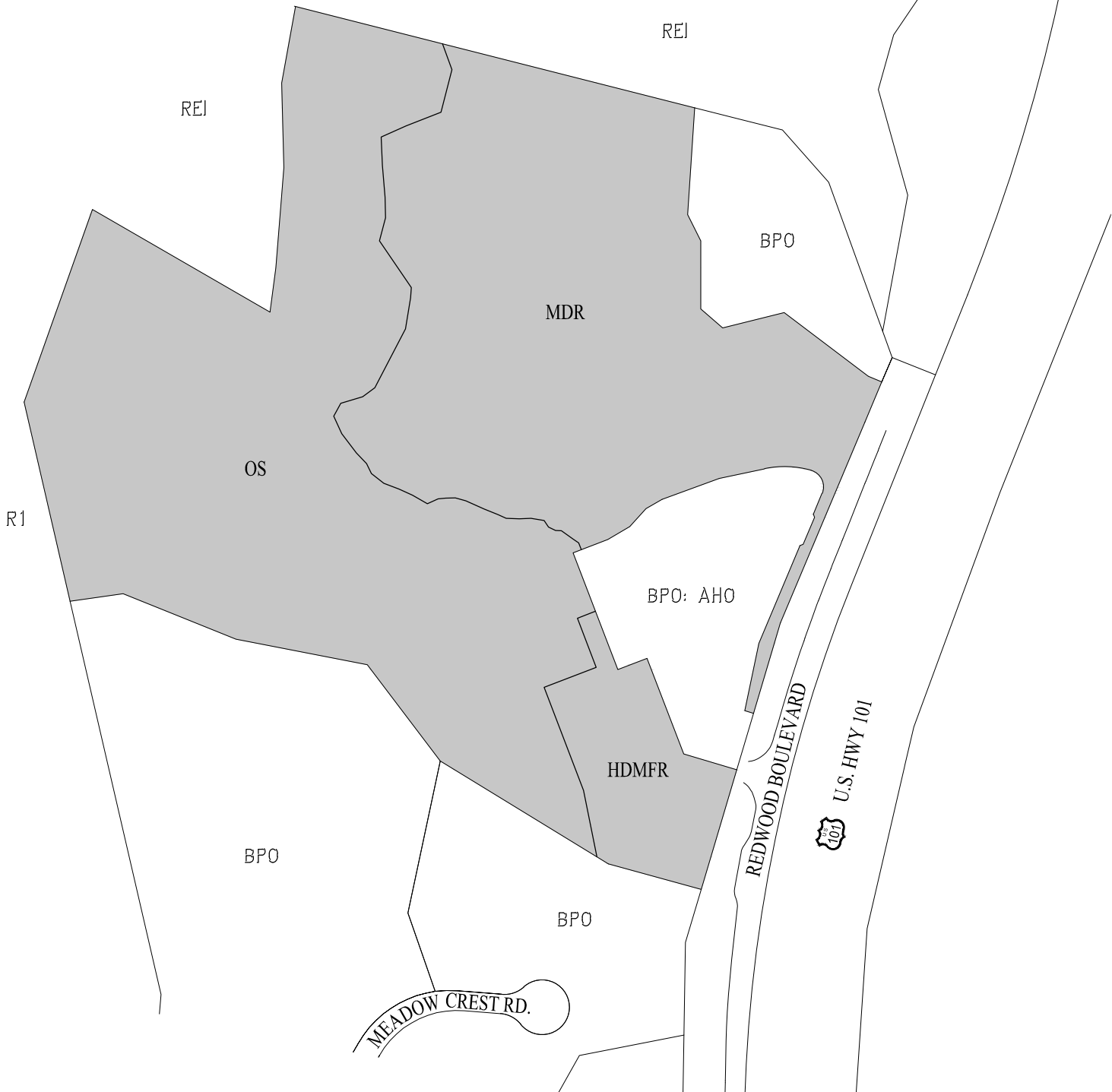
CITY OF NOVATO MARIN COUNTY CALIFORNIA

DATE: OCTOBER 20, 2023 SCALE: 1" = 300'




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LEGEND:

- AHO AFFORDABLE HOUSING OVERLAY
- BPO BUSINESS/PROFESSIONAL OFFICE
- HDMFR HIGH DENSITY MULTIPLE FAMILY RESIDENTIAL
- MDR MEDIUM DENSITY RESIDENTIAL
- OS OPEN SPACE
- REI RESEARCH/EDUCATION – INSTITUTIONAL
- R1 LOW DENSITY RESIDENTIAL
-  AMENDED AREAS

AMENDED GENERAL PLAN DESIGNATION VALLEY OAKS

CITY OF NOVATO MARIN COUNTY CALIFORNIA

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