

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2023-023

RESOLUTION OF THE NOVATO PLANNING COMMISSION  
RECOMMENDING THE NOVATO CITY COUNCIL APPROVE  
AN AMENDMENT TO THE NOVATO ZONING MAP  
APPLICABLE TO THE PARCELS AT 7530 REDWOOD  
BOULEVARD, APNs 143-011-05 & 143-011-08, FROM  
GENERAL COMMERCIAL (CG) TO MIXED-USE (MU)

WHEREAS, the City of Novato (“City”) received an application (P2021-040) from Metrovation LLC (“Applicant”), representing ROIC LLC (“Property Owner”), proposing to amend the Zoning Map to change the zoning classification for the parcels at 7530 Redwood Boulevard, APNs 143-011-05 & 143-011-08 (“Project Site”) from General Commercial (CG) to Mixed-Use (MU) (“Amendment”), as depicted on Exhibit A included herewith; and

WHEREAS, in addition to the application for a Zoning Map Amendment, the Applicant has also submitted applications for a General Plan Land Use Amendment, a Use Permit, Design Review and a Density Bonus Request (“Other Entitlements”) for the development of the Village at Novato Mixed-Use project, which includes 178-units, 14,000 square feet of commercial space and ancillary improvements. Collectively, the Other Entitlements and the Amendment are referred to herein as the “Project”; and

WHEREAS, the 5.9 acre Project Site is currently zoned General Commercial (CG), as depicted on the Novato Zoning Map; and

WHEREAS, the Amendment is requested to designate the Project Site as Mixed-Use (MU), as depicted on Exhibit A included herein; and

WHEREAS, the City determined that 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 August 27, 2020, the Applicant hosted a neighborhood meeting to present the Project and to receive feedback from the public. This meeting was noticed and conducted in accordance with the requirements of Novato Zoning Ordinance Section 19.40.070.D; and

WHEREAS, on October 7, 2020, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, circulation, building massing, architectural design and landscaping proposed for the Project; and

WHEREAS, on May 19, 2021, the Novato Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, circulation, building massing, architectural design and landscaping; and

WHEREAS, public notices describing the Planning Commission public hearing on the proposed IS/MND prepared for the Project were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, and all persons requesting a notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in the Marin Independent Journal, a newspaper of local circulation, on December 1, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on December 11, 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 Project, (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the Novato General Plan 2035 and its certified final EIR, the Novato 2023-2031 Housing Element, and the Novato Municipal Code, (5) all designs, plans, studies, data and correspondence submitted to 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, and (7) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Novato and its surrounding areas.

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

### **Section 3. Findings**

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

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

Facts in Support: The Project Site currently has a zoning classification of General Commercial (CG), and a land use designation of General Commercial (CG). This Project includes a General Plan land use amendment to change the current General Plan land use designation to Mixed-Use (MU). The MU zoning district implements the MU land use designation of the Novato General Plan by providing a detailed list of acceptable land uses and physical development standards including setbacks and lot coverage. From a land use and development intensity perspective, the land uses allowed in the MU zoning district are consistent with those allowed in the MU land use designation. Therefore, applying the MU zoning district to the Project Site would be consistent with the same General Plan policies that are applicable to the MU land use designation. The Amendment is considered to be consistent with Finding No. 1.

2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and

Facts in Support: Approval of the Amendment would result in the assignment of the MU zoning classification to the Project Site. This action is intended to support the construction of the Project. The City of Novato Community Development and Public Works 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. The Amendment is considered to be consistent with Finding No. 2.

3. The proposed project has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines.

Facts in Support: A CEQA IS/MND was prepared for the Project, including the Amendment, to determine if approval of this request and subsequent construction of the Project, respectively, would result in significant impacts to the environment. This analysis included the review of various technical topics addressing the public interest, health, safety, convenience, and welfare, including nearby residents and employees, and the City's residents at a large. In no instance did the IS/MND identify any significant impacts associated with the Project, including the Amendment, that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The analysis identified potentially significant impacts to Biological Resources, Cultural Resources, Geology/Soils, Noise and Tribal Cultural Resources 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. The mitigation measures presented in the IS/MND will be applied to the Project as conditions of approval. The Amendment is considered to be consistent with Finding No. 3.

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

Facts in Support: The Project, which includes the Amendment, was presented to the Design Review Commission on October 7, 2020 and May 19, 2021. The purpose of the 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.

On May 19, 2021 the Design Review Commission adopted a motion recommending that the Planning Commission and City Council approve the site design, circulation, building massing, architectural design, and landscaping for the Project. The Design Review Commission's recommendation was based upon the required findings for Design Review, including applicable design related policies of Novato General Plan 2035.

The Project would receive water service from the North Marin Water District and sewer service from the Novato Sanitary District. Referrals were sent to both Districts describing the proposed Amendment and the accompanying Project, including plan documents. Both the North Marin Water District and the Novato Sanitary District indicated that they will serve the Project.

A CEQA IS/MND was prepared for the Project, including the Amendment to determine if approval of these requests would result in significant impacts to the environment. This analysis included the review of various technical topics addressing public interest, health, safety, convenience, and welfare, including that of nearby residents and employees and the City's residents at large. In no instance did the IS/MND identify any significant impacts associated with the Project, including the Amendment, that could not be mitigated to a less than significant level with the implementation of feasible mitigation measures. The mitigation measures presented in the IS/MND will be applied to the Project as conditions of approval.

Based on the observations above, the Amendment is consistent with Finding No. 4.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the Amendment as set forth in Exhibit A, attached hereto and incorporated herein by reference, to change the zoning classification assigned to the parcels at 7530 Redwood Boulevard, APNs 143-011-05 & 143-011-08, from General Commercial (CG) to Mixed-Use (MU) subject to the following conditions of approval.

**Section 4. Indemnity and Time Limitations**

- a. The Applicant, property owner and any successor(s) in interest, whether in whole or in part, to either of them, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the action(s) at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the Applicant, the property owner, and/or any successor(s) in interest, the City, and/or parties initiating or bringing such action.
- b. The Applicant, property owner and any successor(s) in interest, whether in whole or in part, to either of them, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.
- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the Applicant, property owner, and/or any successor(s) in interest of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the Applicant, property owner, and/or any successor(s) in interest in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the developer has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the Applicant, property owner, and/or any successor(s) in interest.
- d. The Applicant, property owner and any successor(s) 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 11th day of December 2023, by the following vote:

AYES: Commissioners Heath, Havel, Crockett, Dawson, Derby, Engdahl, 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 11<sup>th</sup> day of December 2023.

*Lia Heath*

---

Chair Lia Heath

**Attachments**

Exhibit A – Zoning Map Amendment, 7530 Redwood Boulevard (APNs 143-011-05 & -08)

Project Reference No.: P2020-037, P2021-040, P2021-041 & P2021-042

## EXHIBIT A

### Village at Novato Mixed-Use Project

### Zoning Map Amendment Exhibit

#### Project Site Information

**Project Location:** 7530 Redwood Boulevard

**APN(s):** 143-011-05 & 143-011-08

**Total Lot Area:** 5.85± acres

#### Zoning Map Amendment Information

**Existing Zoning:** General Commercial (CG)

**Proposed Zoning:** Mixed-Use (MU)



Figure 1 - Subject site for the Zoning Map Amendment is outlined in red.