

PLANNING COMMISSION RESOLUTION

RESOLUTION NO. 2023-024

RESOLUTION OF THE NOVATO PLANNING COMMISSION RECOMMENDING THE NOVATO CITY COUNCIL APPROVE A USE PERMIT, DESIGN REVIEW, AND A DENSITY BONUS REQUEST FOR THE PROPOSED VILLAGE AT NOVATO MIXED-USE PROJECT, A 178-UNIT AND 14,000 SQUARE FOOT MIXED-USE PROJECT AT 7530 REDWOOD BOULEVARD, APNs 143-011-05 & 143-011-08

WHEREAS, the City of Novato (“City”) received an application (P2021-040) from Metrovation LLC (“Applicant”), representing ROIC LLC (“Property Owner”), proposing a mixed-use residential project that requires use permit and design review approval. The Applicant has also submitted a Density Bonus request for the development of the Village at Novato Mixed-Use project, which includes 178-units, 14,000 square feet of commercial space and 395 surface parking spaces (“Project”), at 7530 Redwood Boulevard, APNs 143-011-05 & 143-011-08 (“Project Site”); and

WHEREAS, the Applicant also submitted a request pursuant to Novato Municipal Code (“NMC”) Division 19.25 and California Government Code Section 65915 to allow for two incentives or concessions from (1) the minimum private open space requirement as required by NMC Section 19.34.124 and (2) the covered parking requirement pursuant to NMC Section 19.30.040; and four waivers or reductions from development standards specific to the MU Zoning District specifically (1) a waiver from the minimum front setback, (2) a waiver from the maximum Floor Area Ratio (“FAR”), and (3) a waiver from the maximum height limit; as well as (4) a waiver from the minimum parking lot landscaping requirements. In addition, the Applicant requests a parking reduction based on Government Code Section 65915(p); and

WHEREAS, the Applicant is requesting approval of a Use Permit pursuant to NMC Section 19.42.050, which establishes procedures for the review and approval of a Use Permit application, approval of Design Review pursuant to NMC Section 19.42.030 which establishes procedures for the review and approval of a Design Review application, and of a Density Bonus request pursuant to NMC Section 19.25 and Government Code Section 65915; and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission did make a recommendation to the City Council regarding CEQA compliance for the Project and did consider the IS/MND prior to taking action on the Project; 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; and

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

Section 1. Recitals

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

Section 2. Record

The Record of Proceedings ("Record") upon which the Planning Commission bases its recommendation 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, and the Project, (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

Use Permit:

The Planning Commission hereby makes the following findings as required by Section 19.42.050.E of the Novato Municipal Code with respect to the Project:

1. The proposed use is consistent with the General Plan and any applicable specific 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 Project is consistent with all applicable General Plan policies, as documented in Exhibit A, attached hereto and incorporated by reference. Exhibit A lists each applicable policy of the Novato General Plan 2035 and details facts supporting the Project's consistency therewith, including the Design Review at issue herein. The Project is considered to be consistent with Finding No. 1.

2. The proposed use is allowed with a Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Ordinance and any relevant Master Plan and/or Precise Development Plan;

Facts in Support: As discussed above, this Project involves a zoning map amendment to change the zoning classification to Mixed-Use (MU). Accordingly, this Project review is based on applicable MU zoning classification land use and development standards. Multi-family residential in a mixed-use project is allowed within the MU zoning district with an approved use permit. As such, consistent with the Zoning Ordinance requirements, the Applicant is requesting a use permit to allow for their mixed-use project at the Project Site. The Project has been reviewed for consistency with the Novato Zoning Ordinance, as detailed below in Exhibit A attached to this resolution and incorporated herein by reference. The Project is considered to be consistent with Finding No. 2.

3. The establishment, maintenance or operation of the use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use;

4. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and

Facts in Support (Findings 3 and 4): The Project has been designed to ensure the establishment, maintenance or operation will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use. The Project has been designed to ensure that noise and traffic will not adversely impact persons residing or working in the surrounding neighborhoods of the proposed uses as analyzed and mitigated in the IS/MND. Both a noise assessment and a traffic analysis were prepared and demonstrate that resulting noise and traffic from the Project will not exceed acceptable noise levels nor reduce the level of service for vehicular movements below acceptable service thresholds. Three (3) trash enclosures located in the eastern and western portions of the Project Site will serve the Project. These enclosures are positioned away from the residential units and neighboring properties to avoid odor issues and intermittent noise generated from refuse pickup. The Project has been reviewed by the Novato Fire Protection District, Novato Sanitary District, North Marin Water District, Sonoma-Marín Area Rail Transit (SMART), Novato Public Works Department and the Novato Building Division who have provided conditions of approval that are necessary to ensure that construction and ongoing maintenance for the Project will not have any detrimental impacts to health, safety and the general welfare of the City. The proposed Project is consistent with this finding based on this statement of facts and the analysis provided in Exhibit A. The Project is considered to be consistent with Finding Nos. 3 and 4.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

Facts in Support: The Project Site is an undeveloped parcel located north of the existing Trader Joe's store (7514 Redwood Blvd.) at Redwood Boulevard and Olive Avenue. The Project involves the construction of three (3) buildings, one of which fronts onto Redwood Boulevard and two located north of Olive Avenue. The building that fronts onto Redwood Boulevard includes 14,000 square feet of commercial/retail space and two stories of residential units. The remaining two buildings include four stories of residential units for a total residential unit count of 178 units. Peak building heights for the three buildings will be at approximately 45-feet. For context, the property north of the Project site is being developed with a 103-room hotel that will be 3-4 stories tall with a maximum height of 53-feet, and the properties in the vicinity of the Project Site include a townhome development (Atherton Place), single-family residential homes (Elmwood Court) and the Trader Joe's commercial/retail shopping center.

The discussion provided below further evaluates the physical characteristics of the Project in relation to the surrounding neighborhood. As proposed, the design of the Project is sensitive to the existing neighborhood. Use of the commercial/retail space created in the building that fronts onto Redwood Boulevard is expected to comply with allowed uses established for the MU zoning district. Incorporation of the multi-family residential units on the upper floors serves to physically separate them from existing and future, allowed, commercial activities in the vicinity and potential operational conflicts between residential and commercial uses, including noise disruption. Based on the observations above, the Project's siting, size, design, and pending operation of allowed commercial uses within the MU zoning district combined

with multi-family residential units is compatible with the existing and future land uses in the vicinity. The Project is considered to be consistent with Finding No. 5.

Design Review:

The Planning Commission hereby makes the following findings as required by Section 19.42.030.F of the Novato Municipal Code with respect to the Project:

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 the Municipal Code, including this Zoning Ordinance 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 by reference. Exhibit A lists each applicable policy of the Novato General Plan 2035 and details facts supporting the Project's consistency therewith, including the Design Review at issue herein.

Novato Zoning Ordinance

As noted above, the Project Site currently has a zoning classification of General Commercial (CG), however, this Project involves a zoning map amendment to change the zoning classification to Mixed-Use (MU). Accordingly, this project review is based on applicable MU development standards, as well as the Downtown (D) and AHO Overlay zoning district development standards, barring the granting of concessions, waivers, or reductions under State Density Bonus Law to provide relief from such standards.

The following tables list key development standards and zoning sections that are applicable to this Project and where a waiver or concession to said standard has been requested.

Development Standards for the MU Zoning District						
Project Parcel Size:	Setback			Building Coverage	Height Limit	Floor Area Ratio
5.85 acres	Front	Side	Rear			
Codified Standard	20'	None	None	40%	35' ²	0.80
Project Proposal	6' ¹	50' & 146'	79.6'	26%	45' ³	0.90 ⁴

Notes:

¹ Waiver of the front setback requirement is requested for the portion of the Project Site that fronts onto Redwood Boulevard.

² Per NMC Section 19.20.070(C)(2), the height limits of [Article 2](#) may be increased by a maximum of 20 percent through Design Review approval in accordance with NMC [Section 19.42.030](#) (Design Review), except for the Downtown Core. This increase allows for a maximum height of 42-feet within the MU zoning district with design review approval.

³ Subject of State Density Bonus waiver from the 42-foot maximum height limit allowed for the MU zoning district through design review.

⁴ Subject of State Density Bonus waiver of the maximum allowable FAR for the MU zoning district.

Applicable Zoning Ordinance Sections and Project Consistency		
Dev. Feature	Zoning Development Standard	Project Compliance
Trash & Recycling	As required by NMC Section 19.20.120 , a minimum of 384 square feet of solid waste storage, and 384 square feet of recycling shall be required for multi-family projects with 176-200 units.	Yes
Art	As required by NMC Division 19.21.030 , art may be located on-site in an area visible from the public street or sidewalk, on an adjacent public property, or otherwise in an area determined appropriate by the design review authority. The art project shall have a value of not less than one-third of one percent of construction cost. Alternatively, payment of an in-lieu fee may be permitted if approved by the City's Director of Parks, Recreations and Community Services.	Planning staff is recommending a condition of approval that would require an art piece to be reviewed and approved by the DRC subsequent to a City Council approval of the Project, or payment of an in-lieu fee in accordance with Division 19.21 (Art Program).
Light and Glare	As required by NMC Section 19.22.060	Yes
Landscaping	As required by NMC Division 19.28 .	Yes
Parking	As required by NMC Division 19.30 .	Project does not comply with portions of this Division; this is a subject of density bonus waiver request.
Bicycle Parking	As required by NMC Section 19.30.090 , multi-family project shall provide a minimum of 10 percent of the required vehicle spaces, and retail commercial uses shall provide a minimum of 5 percent of the required vehicle spaces.	Yes, 202 bicycle parking spaces are provided
Mixed-Use Projects	Standards provided by NMC Section 19.34.100 .	Yes
Open Space	As required by NMC Section 19.34.124 , 150 square feet of usable open space per unit, may be a combination of private and common open space; balconies and decks with no dimensions of less than 6-feet.	Project does not comply with this standard; this is a subject of density bonus concession request.

Based on a review of plans, the only deviations from codified standards are the four items listed in the density bonus request identified as incentives, concessions and waivers for 1) Private open space requirements; 2) Covered parking required; 3) Redwood Blvd. building setback; 4) Maximum floor area ratio; 5) Maximum building height; and 6) Street-side landscaped planting strip width. In addition, the Applicant is requesting to provide a reduce level of parking based on Government Code Section 65915(p). The City Council may waive the noted items if it accepts the requested density bonus and approves the General Plan land use amendment and rezoning of the property. Notwithstanding the pending density bonus and noted development standards waivers, the Project is considered to be consistent with Finding No. 1.

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: The Project Site is currently an undeveloped parcel along Redwood Boulevard and Olive Avenue. The current state of the Project Site does not present an attractive environment and does not currently provide a sense of community. As proposed, the Project Site will include frontage improvements along Redwood Boulevard to encourage pedestrian access to the Project Site, as well as retail/commercial opportunities in this portion of Redwood Boulevard. The Project Site also includes a large community green area with many community and pedestrian oriented amenities as discussed in the analysis portion of LU 26 in Exhibit A. Given the existing condition of the site, the Project would significantly improve the character and appearance of the property which in doing so will help in creating a more desirable environment for occupants, neighbors, and the visiting public. The Design Review Commission reviewed the Project for consistency with Finding No. 2 and recommended that the Planning Commission approve the Design Review entitlement for the Project. The Project is considered to be consistent with Finding No. 2.

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: 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, none of the responsible agencies identified issues requiring significant changes to the Project Site and/or building design that, lest 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. The Project is considered to be consistent with Finding No. 3.

Density Bonus and Development Standards Concessions and Waivers:

Novato Municipal Code Division 19.25 includes regulations regarding the application of density bonus requests that comply with CA Government Code Sections 65915 through 65918 (Density Bonus and Other Incentives). The Project includes a base unit count of 124 residential units, 18 of which are offered as affordable units at the very low-income level, or 14.5% of the base residential unit count. The Project also includes another 7 units (5.6%) reserved at the low-income level, bringing the total level of affordable units to approximately 20.1% of the base unit count. With a very low-income unit contribution of 14.5%, the Project meets the criteria required for 46.25% density bonus (see Government Code Section 65915(f) (2)). A density bonus of 46.25% results in a total of 178 residential units.

The Applicant has requested the City grant a density bonus based on the criteria California Government Code §65915 (State Density Bonus Law). Since the Project Site is not currently designated for residential development, the City is not compelled to grant a density bonus under State Density Bonus Law. Nevertheless, an applicant can request a density bonus in conjunction with legislative amendments to allow residential development. In such cases, the City Council, as the legislative authority, has the discretion to grant a density bonus, but not an obligation as is the case for a site already designated for residential use.

The following listed items are concessions and waivers that have been requested. Concessions are applied where a project requires relief from standards imposing costs that financially impair the ability to provide affordable housing. Waivers are offered under State Density Bonus Law to allow a project to obtain relief from standards physically precluding development of the number of dwelling units allowed via a density bonus. In this instance, the Applicant has requested the following:

Incentives or Concessions

1. Concession from the private open space requirement for mixed-use projects;

As required by NMC [Section 19.34.124](#) (Multi-Family Dwellings), 150 square feet of usable open space per unit is required, and may be a combination of private and common open space; balconies and decks with no dimensions of less than 6-feet. The Applicant has stated that strict compliance with the private open space requirement would require balconies on the residential units, which would add significant costs to the Project.

2. Concession from the covered parking space requirements for multi-family residential projects.

NMC [Section 19.30.040](#), Table 3-7 and footnote 2, requires that at least one parking space per unit in a multi-family development be covered (i.e. within a garage or carport). The Applicant has stated that strict compliance with the covered parking requirement would add significant costs to the Project.

Waivers or Reductions of Development Standards

1. Waiver from the 20-foot front setback requirement for the MU zoning district for the portion of the project that fronts on Redwood Boulevard.

The Mixed-Use district development standards requires a 20-foot minimum front yard setback, per NMC [Section 19.14.040](#), Table 2-10. Building A, which has frontage on Redwood Blvd as a front setback that ranges from 3.6 feet to 8.4 feet, which is below the 20-foot minimum. The City's 20-foot setback requirement would result in a loss of the number of parking spaces available for on-site parking, result in smaller buildings, and/or result in reduced landscaping and other on-site amenities, and result in the physical preclusion of development based on a reduction in the number of dwelling units in order to meet the setback requirement.

2. Waiver from the 0.80 floor area ratio (FAR) limit for the MU zoning district;

The Mixed-Use district development standards includes a maximum FAR of 0.8 where housing is included in a mixed-use project. The Project includes an FAR of 0.9, exceeding the 0.8 maximum.

3. Waiver from the 42-foot maximum height limit allowed for the MU zoning district through design review (20 percent increase to the maximum height of 35 feet for the MU zoning district);

The Mixed-Use district development standards include a maximum building height of 35 feet, per NMC [Section 19.14.040](#), Table 2-10. NMC [Section 19.20.070.C](#) (Height Limits and Exceptions) allows a height increase of 20 percent, equal to a 42 feet maximum height. Additionally, chimneys, decorative gables, mechanical screening, and similar structures may exceed the height limit by an additional 8 feet, for a maximum height of 50 feet. The Project includes two 4-story residential buildings (Buildings B and C) that have building heights of 42 feet, 6 inches. Where the roof access stairwells are located, the building height is 52 feet, 6 inches. Both the main building height exceeds the limit and the stairwells exceed the limit. Strict compliance with the City's height limits would result in a reduction of dwelling units based on the elimination of one building level.

4. Waiver from some parking lot landscaping requirements.

NMC [Section 19.30.070.H](#) includes various parking lot landscaping requirements, including parking lot perimeter landscaping and parking lot interior landscaping. Parking areas adjoining a public street shall be designed to provide a 10-foot-wide landscaped planting strip, exclusive of curbing, between the street right-of-way and parking area. The landscaping shall be designed and maintained to screen the view of cars from the street to a height of 36 inches. As proposed the landscaped planting strip along Olive Avenue ranges from 6 feet wide to approximately 8 feet wide. Parking areas adjacent to side and rear yard property lines shall be at least 5 feet. The proposed landscape strip width along the SMART railroad tracks ranges from 1-foot to 7 feet. Parking lot interior landscaping standards require planter areas at the ends of parking aisles and in finger planters between parking spaces at a rate of one landscape finger at least every eight parking spaces. There are six instances where there are nine, and one instance where there are ten parking

spaces between landscape fingers, exceeding the codified maximum of eight spaces. Increasing the number of landscape fingers would reduce the number of off-street parking stalls.

The Applicant is also requesting to provide a reduced number of on-site parking stalls pursuant to California Government Code Section 65915(p).

The requested concessions, waivers, and parking reduction listed above are necessary to accommodate the proposed Project as designed. Therefore, pursuant to Novato Municipal Code Section 19.25.060.C.4, the Planning Commission hereby recommends the City Council grant two incentives or concessions from (1) the minimum private open space requirement as required by NMC Section 19.34.124 and (2) the covered parking requirement pursuant to NMC Section 19.30.040; and four waivers or reductions from development standards specific to the MU Zoning District specifically (1) a waiver from the minimum front setback, (2) a waiver from the maximum Floor Area Ratio (“FAR”), and (3) a waiver from the maximum height limit; as well as (4) a waiver from the minimum parking lot landscaping requirements; and, accept a reduced amount of on-site parking pursuant to Government Code Section 65915(p).

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby recommends that the City Council approve the use permit, design review and density bonus request for the Project as shown on the plans prepared by Trachtenberg Architects, dated November 4, 2021, Adobe Associates, Inc., dated October 20, 2021, and JETT Landscape Architecture + Design, dated October 26, 2021, included herein by reference, for the Project, based on the findings set forth herein and subject to the following conditions of approval:

Section 4. Conditions of Approval and Time Limitations

The Planning Commission hereby recommends the City Council apply the following conditions of approval to the Project:

1. The Applicant shall comply with Novato Municipal Code Division 19.21 (Art Program) prior to the issuance of a building permit.
2. The Project shall be constructed in accordance with the design plans prepared by Trachtenberg Architects, dated November 4, 2021, Adobe Associates, Inc., dated October 20, 2021, and JETT Landscape Architecture + Design, dated October 26, 2021. Minor modifications to the Project’s site design, landscaping, or architecture may be considered and acted upon by the Community Development Director pursuant to Novato Municipal Code Section 19.44.050.
3. Subsequent a City Council decision regarding the Project entitlements, the Applicant shall submit the following final design details to the Design Review Commission for review and approval prior to issuance of the first building permit:
 - a. Location and type of all exterior lighting;
 - b. Location and size of all mechanical and utility equipment including power and telephone equipment, meters, and transformers;

- c. Landscape plans in construction detail showing the location, type, and size of plant materials, estimated height and spread at maturity; the area and type of top dressing; tree staking; soil mix; planting area separators; fencing; area lighting; and all other landscaping improvements;
 - d. Adequate enclosures or screening of all rooftop equipment;
 - e. Enclosure design for utility meters and trash areas;
 - f. Final colors approved by DRC, as reflected on the color board presented to DRC on May 19, 2021;
 - g. Type, size, appearance, and location of all signage based on compliance with master sign program.
4. The Project shall comply with all conditions of approval specified in Exhibit B attached hereto.
5. 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 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 11th day of December 2023.

Lia Heath

Chair Lia Heath

Attachments

- Exhibit A – General Plan Policy Consistency
- Exhibit B – Village at Novato Conditions of Approval

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

EXHIBIT A

VILLAGE AT NOVATO MIXED-USE PROJECT

NOVATO GENERAL PLAN AMENDMENT CONSISTENCY FINDINGS

NOVATO GENERAL PLAN 2035

Land Use (LU) Chapter Policies

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.

LU Policy 1b Density and Intensity of Development. Allow development at any density or intensity within the range shown by the Land Use Map (Map GP-1) and Land Use Designations (Table GP-3) provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities/intensities (top of stated ranges) may in some cases be achieved, but there is no guarantee of achieving the maximum density/intensity. Developments on properties designated for multi-family residential should not be allowed below the minimum density of the density range unless there are environmental or compatibility issues that warrant density reduction.

Facts in Support (LU Policy 1 & 1b): The Project includes a General Plan amendment to change the land use designation of the Project Site from General Commercial (CG) to Mixed-Use. The Project consists of constructing a mixed-use development project that includes residential units and commercial space consistent with the MU land use designation. Upon approval of the requested Project entitlements, including the noted General Plan land use amendment, the Project will be consistent with the MU land use designation and with all applicable General Plan policies, as described in further detail below.

The MU land use designation permits multi-family residential uses in a mixed-use project and offers a maximum density of 20.0 dwelling units per acre in mixed-use developments and a maximum floor area ratio (FAR) of 0.4, with the potential for an increase to 0.80 when housing is incorporated into a project. The Project proposes the development of 178-units on a 5.85-acre parcel, resulting in a density of 30 dwelling units per acre. As proposed, the Project would meet the land use definition for the MU land use designation, and it would exceed the maximum allowable density permitted under the MU land use designation. The Project includes a request that the City grant a density bonus based on the criteria California Government Code §65915 (State Density Bonus Law) to achieve the proposed density. Since the Project Site is not currently

designated for residential development, the City is not compelled to grant a density bonus under State Density Bonus Law. Nevertheless, an applicant can request a density bonus in conjunction with legislative amendments to allow residential development. In such cases, the City Council, as the legislative authority, has the discretion to grant a density bonus, but not an obligation as is the case for a site already designated for residential use. Accordingly, the Project is not consistent with the density range assigned to the MU land use designation until City Council approves the requested density bonus.

Based on the facts above and the Record as a whole, the Project is consistent with and advances LU Policies 1 and 1b.

***LU Policy 3 Anticipated Growth.** Plan the City's infrastructure and service levels to provide capacity for the total amount of development expected by 2035 as shown in Table GP-4.*

***LU Policy 3c Impacts of New Development on Infrastructure and Services.** Analyze project impacts on infrastructure capacity and services as part of CEQA review, and require design modification and mitigation measures in consultation with provider agencies. If CEQA review or other analysis of development projects concludes that a proposed project would result in a significant deterioration of service or would cause available capacity to be exceeded, respond as appropriate in one or more of the following as permitted by state law:*

- a. Require project redesign in order to prevent service from deteriorating or capacities being exceeded, provided that all economic use of the property is not prevented;*
- b. Condition the project on developer funding of improvements needed to maintain services and/or provide additional infrastructure capacity;*
- c. The project may be approved if it can be found that the project will do one or more of the following:*
 - i. Generate substantial overriding public benefits,*
 - ii. Be in compliance with all of the other goals and policies of the General Plan, and*
 - iii. Benefit the public health, safety, and general welfare of the community.*
- d. Deny the project.*

Facts in Support (LU Policy 3 and 3b): The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin water District and the Novato Fire Protection

District. These government entities are responsible for ensuring the provisions of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure that the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through design and construction of the Project. All other utilities including electricity, cable, internet, and telephone services are located at the Redwood Boulevard right-of-way and are available to the Project.

The CEQA IS/MND prepared for the Project also analyzed the ability of local government services and public utilities to serve future development at the Project Site based on the land use, development intensity, and design of the Project. The IS/MND also reviewed the demand for public parks and other government service facilities (e.g., post office, library, etc.). The IS/MND confirmed the majority of public services have sufficient capacity, facilities, infrastructure, equipment, and staff to meet the needs of the Project on an individual and cumulative basis.

Based on the analysis in the IS/MND prepared for the Project, incorporated herein by reference, and the observations above, the Project is consistent with LU Policies 3 and 3c.

***LU Policy 4** Development to Pay Fair Share. Require new development to pay its 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 the Plan.*

Facts in Support (LU Policy 4): The Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to ensure the Project provides adequate infrastructure. These conditions of approval are to be adopted for the Project and implemented through the construction design and physical construction phases of the Project. These agencies did not identify any constraints relating to service of the Project on an individual or cumulative basis. The Applicant will pay development impact fees, as applicable to the Project.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance LU Policy 4.

***LU Policy 26** North Redwood Corridor. Consider the following preferred land use concepts and design guidelines for the bounded area and individual sites depicted in Figure GP-7 in evaluating development and infrastructure proposals for the North Redwood Corridor:*

Preferred Land Use Concept for Site 5a [Project Site]:

- *Create a retail development composed of smaller shops and medium-sized retailers of 20,000 – 30,000 square feet each along with restaurants and entertainment facilities.*
- *Allow for second and/or third story office or recreational space, if practical and if a minimum 0.30 Floor Area Ratio of retail space is provided in this subarea.*
- *Consider studying land use and zoning amendments for mixed-use development at Site 5a if proposed by the property owner [emphasis added].*

Design Guidelines for Site 5a:

- *Provide for public gathering places and ample outdoor seating area throughout the area.*
- *Incorporate extensive landscaping with shade trees.*
- *Provide pedestrian and bicycle connections between retailers and public spaces to the bicycle/pedestrian facilities along the SMART corridor along Redwood Blvd.*
- *Explore incorporating design features or portions of Dairymen's Milling building into the retail development.*
- *Create wide pedestrian sidewalks and a bicycle path along the Redwood Blvd. frontage.*
- *Locate buildings near the Redwood Boulevard frontage, with shop entries and/or display windows facing the street and gathering places.*
- *Minimize views of parking areas from Redwood Boulevard, typically by locating parking behind buildings.*

Facts in Support (LU Policy 26): The Project Site is identified in Figure GP-7 (North Redwood Corridor Sites) as Site 5a and currently has a general plan land use designation of General Commercial (CG) and a zoning classification of General Commercial (CG). The Project involves a General Plan land use designation amendment and a zoning map amendment to change the current land use designation and zoning classification to Mixed-Use (MU) to allow for the proposed Project's development.

The Project includes the construction of a new 14,000 square foot ground floor retail/commercial space that is oriented along the Redwood Boulevard frontage portion of the Project Site. This retail/commercial space will feature an outdoor dining/seating area located at the northern Redwood Boulevard site entrance adjacent to a grain silo signage structure. This building configuration allows for shop entries and/or display windows to be oriented towards Redwood Boulevard, as well as gathering spaces such as the outdoor dining/seating area, while also minimizing any public views of the parking areas located behind Building A.

Additional outdoor spaces are provided throughout the Project Site by way of a common green area that extends between Building B and Building C. This common green area includes many community amenities to encourage public gathering (e.g., community garden areas, bocce ball court, fire pit lounge areas, dining and barbecue areas) and provides a pedestrian pathway between the three (3) buildings. This pathway also allows for a direct pedestrian connection to the Redwood

Boulevard frontage from the rear buildings (Buildings B & C). This frontage area will include a protected bicycle lane located between diagonal street parking stalls and a new sidewalk that will continue north from the existing sidewalk along the Trader Joe's building at 7514 Redwood Boulevard.

The Project's landscaping and planting plan demonstrates that the common green area and the balance of the Project Site will be adequately landscaped with a variety of plant species and types and shaded by a variety of tree species.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance LU Policy 26.

Community Character (CC) Chapter Policies

***CC Policy 2 Archaeological Resources Protection.** Recognize the importance of protecting significant archaeological resources and implement measures to preserve such resources.*

***CC Policy 2a Tribal Cultural Resources Protection.** The City shall comply with AB 52, which may require formal tribal consultation on a project-by-project basis.*

Facts in Support (CC Policies 2 and 2a): The CEQA IS/MND prepared for the Project analyzed potential impacts to archaeological resources and tribal cultural resources and concluded that there are no known resources at the Project Site. However, mitigation measures are recommended due to the potential for unknown or unforeseen resources that may be discovered during land disturbing activities associated with the construction of the Project. The recommended mitigation measures will reduce potential impacts to a less than significant level. The City did notify local Native American tribes in compliance with AB 52 and received a request for consultation from the Federated Indians of Graton Rancheria (FIGR). As detailed in Section 18 of the CEQA IS/MND, the City and FIGR conducted several consultation meetings and crafted the mitigation measures referenced above based on the findings of field surveys and canine detection survey conducted at the Project Site. The City provided the Final Cultural Resources Report which included mitigation measure recommendations to FIGR, however, the City did not receive further correspondence from FIGR regarding these mitigation measures and has concluded that, after a good faith effort, mutual agreement with FIGR could not be reached as FIGR did not respond in a timely fashion to the mitigation measures presented by the City.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policies 2 and 2a.

***CC Policy 4 Environmental Constraints.** Assess environmental constraints when considering development of lands with high environmental value (e.g., wetlands or scenic ridgelines) or significant hazards (e.g., soil stability, fire or flood hazards).*

Facts in Support (CC Policy 4): The CEQA IS/MND included an analysis of potential impacts of

the Project on the environment for the topical areas included in the Appendix G checklist. The analysis concluded that potentially significant impacts can be mitigated to a less than significant impact through the implementation of feasible mitigation measures. Mitigation measures are recommended for biological resources, cultural resources, geology and soils, noise and tribal cultural resources.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policy 4.

CC Policy 7 Mixed-use Development. Accommodate additional housing on upper floors over commercial and office uses where appropriate.

Facts in Support (CC Policy 7): The Project involves the construction of a new mixed-use building, Building A, which includes two (2) floors of 28 residential units over 14,000 square feet of retail/commercial space. The Project is thereby consistent with CC Policy 7. The Project includes a horizontal mix of commercial and residential development that likewise meets the intent of CC Policy 7 by expanding housing opportunities in combination with new commercial development.

CC Policy 8 Pedestrian-Oriented Land Uses. Encourage pedestrian-oriented, rather than auto-dependent uses in areas such as, but not limited to, Downtown, Pacheco Plaza, Hamilton Town Center, The Square Shopping Center and other activity centers where mixed uses, shared parking (on- and off-street), transit service, and other conditions facilitate pedestrian circulation and community interaction.

Facts in Support (CC Policy 8): The Project includes a pedestrian-oriented mixed-use building frontage along Redwood Boulevard. Pedestrian amenities, such as wide sidewalks, street trees, and space for outdoor dining/seating, will enhance the pedestrian experience along Redwood Boulevard. The Project Site is located less than a half-mile walking distance from the Downtown SMART Station and frontage amenities are intended to match the frontage improvements associated with the Residence Inn project located immediately north of the Project Site.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policy 8.

CC Policy 12 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, and consistent with adopted City policies and design guidelines. Recognize that neighborhoods include community facilities needed by Novato residents as well as homes and integrate facilities into neighborhoods.

Facts in Support (CC Policy 12): The Project Site is currently an undeveloped parcel. For neighborhood context, directly north of the Project Site is the location of the new [Residence Inn](#) project that was approved by City Council on November 13, 2018, and includes the construction

of a 103 room 3-4 story hotel building, as well as a separate 8,000 square foot commercial building. To the south of the Project Site is the existing Trader Joe's retail building. To the west is the location of the Atherton Place project, which was approved by City Council on December 19, 2019, and includes 50 townhomes as well as a 1,360 square foot retail building. East of the Project Site is the Golden Gate Transit District's bus storage yard and a single-family residential neighborhood (Elmwood Court).

There is no clearly defined architectural style on this portion of the Redwood Boulevard corridor. The architectural style of the development to the south of the Project Site (Trader Joe's building) is of a Spanish Colonial Revival, to the north (Residence Inn) the development utilizes a contemporary architectural style, to the west (Atherton Place/Atherton Ranch) the townhomes use Craftsman and Victorian architectural styles, and to the east (Elmwood Court) are an eclectic architectural mix of single-family homes.

Neighborhood scale in this area of Redwood Boulevard is defined by the existing Trade Joe's retail building and the Residence Inn project. The Trader Joe's building is a 21,000 square foot single-story retail building that is 24-feet in height with building elements (i.e., tower element) that are 43-feet tall. The Residence Inn project includes a 103-room 3-4 story hotel building that has 77,532 square feet of building area and is 53-feet in height, as well as a 15-18 foot tall single-story 8,000 square foot commercial/retail building.

Based on the statements of fact above, the Project is considered to fit into the existing and future development for this portion of Redwood Boulevard. The building orientation, articulated contemporary design, landscaping, scale and mix of colors/materials is intended to create interest and variety in design, while also being sensitive to the surrounding architecture, topography, landscaping, and to the character, scale, and ambiance of the surrounding neighborhood.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policy 12.

***CC Policy 13 Architectural Character.** The architecture of new development should be authentic to the style being expressed, with appropriate finish details (materials, colors, application techniques).*

Facts in Support (CC Policy 13): Building materials include horizontal Hardie plank lap siding and red brick veneer. The proposed paint colors include Warm and Toasty, a shade of yellow, and Indian River, a shade of taupe.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policy 13.

CC Policy 18 Parking Standards. Reduce the visibility of parking facilities and the amount of land necessary for them to the maximum extent feasible. Encourage shared parking facilities where feasible.

Facts in Support (CC Policy 18): As discussed above in the analysis portion of LU Policy 26, the orientation of the Project's buildings, namely Building A, provides visual screening along Redwood Boulevard for the parking areas in the rear portion of the Project Site. The Balance of parking areas on-site will be located in areas that are not visible from public streets or include landscaped areas on the perimeter and throughout the Project Site that will reduce the visibility of the required on-site parking.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance CC Policy 18.

Housing (HO) Policies

HO Policy 1.2 Adequate Supply of Housing Sites. Ensure an adequate supply of housing sites to achieve the City's RHNA numbers for the 2023-2031 planning period.

HO Policy 2.1 Supply of Affordable Housing. Promote the development of homes that are affordable to extremely low-, very low-, low-, and moderate-income households in all new residential developments, as well as in existing single-family neighborhoods.

Facts in Support (HO Policies 1.2 and 2.1): The Project Site is listed in the Housing Element as a "pipeline project," and is an expected contributor to the City's RHNA numbers (2,090 units). The Project will provide at least 20 percent of the 178 units as affordable, consistent with the City's Affordable Housing Requirements. Overall, the development will include a range of very low-, low-, moderate-, and above-moderate income units.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with policies HO 1.2 and 2.1.

Living Well (LW) Policies

LW Policy 12 Public Art. Promote public art that enhances the cultural life of the community.

Facts in Support (LW Policy 12): An art piece is proposed within the community green area of the Project Site. Additionally, this Project is required to comply with the City's Art Program as further detailed in the Zoning Consistency section below.

Based on these facts set forth above and the Record as a whole, the Planning Commission finds the Project to be consistent with and advance LW Policy 12.

Noise (NS) Policies

NS Policy 1 Compatibility of New Development. *Protect people in new development from excessive noise by applying the Land Use Compatibility Standards in Figure LW-5 in locating and designing new development.*

NS Policy 1a Acoustical Compatibility Study. *Require an acoustical study for all new residential projects with a future exterior noise exposure of 60 dBA L_{dn} or greater as shown on Figure LW-6 and consider mitigation measures to lower noise exposure.*

NS Policy 1b Indoor Noise Standard. *The maximum acceptable interior noise level for all new residential development, including hotels and motels, is 45 dBA L_{dn} .*

NS Policy 1c Residential Near Gness Field. *An acoustical investigation and noise mitigation should be considered for residential development within the 55 dBA CNEL contour. For any residential development where outdoor noise exceeds 60 dBA L_{dn} require deed disclosure to all residents of the noise levels anticipated.*

NS Policy 1d Exterior Noise Standard. *New residential development should be located in areas where outdoor noise levels are no greater than 60 dBA L_{dn} in areas where outdoor use is a major consideration, such as backyards in single family developments and recreation areas in multifamily developments. This standard should not be applied to outdoor areas such as small decks and balconies typically associated with multifamily residential developments, which can have a higher standard of 65 dBA L_{dn} . This standard shall not apply to outdoor areas for residences in mixed use developments. Additional standards may be applied on a case-by-case basis where supported by acoustical analysis to mitigate the effects of single-event noise sources such as aircraft noise.*

NS Policy 2a Acoustic Impact Study. *Require acoustical studies and mitigation measures for new developments and transportation improvements which affect sensitive receptors such as schools, hospitals, libraries, group care facilities, and convalescent homes.*

NS Policy 2b Noise Mitigation. *Consider mitigation measures for new projects or land uses that would cause a substantial increase in noise (i.e., cause an increase above 60 dBA L_{dn} or cause an increase in 5 dBA L_{dn} or more in the noise ambient noise levels) in adjacent residential areas or in residential areas affected by traffic generated by the Project.*

Facts in Support (NS Policies 1, 1a, 1b, 1c, 1d, 2a and 2b): The IS/MND included an analysis of noise impacts associated with the Project. It was determined that the Project would not have an adverse impact on the environment or future residents with the inclusion of one mitigation measures (NOI-1). Mitigation Measure NOI-1 would ensure that noise impacts associated with the primary source of on-site operational noise (i.e., heating, ventilation and air conditioning)

equipment would not adversely impact future residents. The analysis also concluded that the Project would be consistent with the above-listed policies.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with NS Policies 1, 1a, 1b, 1c, 1d, 2a and 2b.

Mobility (MO) Policies

MO Policy 2 Level of Service Standard. Establish traffic Level of Service (LOS) standards as follows for use in evaluating the impacts of proposed development projects so the project can be redesigned or effective mitigation measures can be implemented, making improvements to the roadway system, and determining appropriate traffic impact fees. Continue to consider LOS standards in evaluating the merits of proposed development or traffic infrastructure projects in addition to consideration of standards associated with Vehicle Miles Traveled (VMT) in the required environmental review process.

Acceptable LOS standards for intersections in the City are:

- a. At intersections with signals or four-way stop signs: operation at LOS D,*
- b. At intersections with stop signs on side streets only: operation at LOS E.*

Facts in Support (MO Policy 2): The Project has been analyzed to determine if the construction and operation would result in unacceptable levels of service (LOS) at impacted intersections. The analysis determined that increased vehicle trip generation associated with the Project would not result in an unacceptable LOS. The future cumulative build-out along the Redwood corridor would result in the need for intersection improvements, but the General Plan EIR has mitigation measures in place for the upgrade of impacted intersections based on the anticipated increase in vehicle traffic. Payment of development impact fees will cover the Project's proportionate share for the future intersection improvements.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with MO Policy 2.

MO Policy 8 Enhance Multimodal Infrastructure. When developing plans for new or retrofitted roadways, incorporate infrastructure as appropriate that enhances multimodal circulation in addition to auto circulation, such as sidewalks, pedestrian paths, bike lanes, pedestrian refuge islands, accessible curb ramps, transit shelters, and pedestrian-scale lighting.

MO Policy 8b Pedestrian and Bicycle Facilities. Incorporate pedestrian and bicycle facilities into the design and construction of roadway improvements where practicable, in accordance with the adopted Bicycle and Pedestrian Master Plan. Construct bike facilities according to the standards established by Caltrans and/or other nationally recognized design standards consistent with good engineering practices, adjusting as necessary to minimize impacts to environmentally sensitive areas.

MO Policy 19 Bicycle Parking. Assure the provision of adequate bicycle parking to encourage bicycle use.

MO Policy 19a Bike Parking in New Development. Continue to require new development and use changes to provide adequate bicycle parking.

MO Policy 20 Safe and Convenient Pedestrian Facilities. Promote, provide and maintain a safe and convenient pedestrian system, including consideration of lighting, sidewalk condition, road surface conditions, roadway crossings, access points, signage, shade landscaping, and street furniture.

MO Policy 20a New Development and City Projects. Require new development projects to include a sidewalk, path or shoulder on all property street frontages as deemed appropriate by City staff, and routinely include projects to close gaps in the pedestrian system on existing streets through the City's Capital Improvement Program.

Facts in Support (MO Policies 8, 8b, 19, 19a, 20 and 20a): The Project frontage along Redwood Boulevard includes proposed sidewalks and proposed bicycle lanes that will connect to existing sidewalks and bicycle lanes. Vehicular traffic associated with the Project will be limited to residents of the residential units, their guests and typical commercial traffic associated with the commercial/retail portion of the Project that fronts onto Redwood Boulevard. The Project includes surface parking stalls that are located throughout the Project Site as well as bicycle parking areas proposed at common outdoor spaces and within the common area of the first floor for both of the residential buildings.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with MO Policies 8, 8b, 19, 19a, 20, and 20a.

Safety and Hazards (SH) Policies

SH Policy 1 Seismic and Geologic Hazards. Reduce the risk of loss of life, personal injury and property damage resulting from seismic and geologic hazards including ground shaking, land sliding, liquefaction and slope failure.

SH Policy 1a Geotechnical Evaluation. Require preparation of a report by an engineering geologist or geotechnical engineer for new construction and grading as required by City code on sites in seismically and geologically hazardous areas and for all critical (high occupancy, health or emergency response) structures. These reports should include, but not be limited to: evaluation and recommendations to mitigate the effects of ground shaking, landslides, surficial debris flows, expansive soils, subsidence and settlement, fault displacement, and Bay mud areas. Implement the recommendations of geotechnical reports through the planning, grading and building permit processes.

Facts in Support (SH Policies 1 and 1a): A geotechnical investigation report was prepared for the Project in December 2020, which summarized the current geologic site conditions, identified geologic hazards and recommended specific Project design features that would need to be incorporated to reduce risk from geological hazards regarding the feasibility of constructing the Project at the site. The report includes design and construction recommendations regarding earthwork, building foundations, pavement design and construction monitoring. With incorporation of geotechnical recommendations as required by the Novato Municipal Code and California Building Code, impacts related to seismic ground shaking and seismic-related ground failure would be less than significant.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with SH Policies 1 and 1a.

SH Policy 3 Fire Hazards. Reduce the risk of loss of life, personal injury and property damage resulting from wildland and urban fire hazards through code enforcement and coordination with the Novato Fire Protection District.

SH Policy 3a Fire Risk in New Development.

- 1. Review all development proposals for fire risk, and require mitigation measures to reduce the probability of fire. Require all new development and substantial remodels to meet the adopted state and local fire codes. Refer all applications for new development that is subject to NFPD regulation to the District for review, comment and conditions of approval.*
- 2. Encourage attractive native and drought-tolerant, low-maintenance landscaping responsive to fire hazards.*
- 3. Require adequate access for emergency vehicles, adequate street width and vertical clearance, driveway access and parking restrictions for new development.*
- 4. Ensure new development meets the peak load water supply standard for fire hydrants of the Novato Fire Protection District. 5. All development that includes private access roads or fire roads shall provide recorded access rights and keys to any gates to the Novato Fire Protection District.*

SH Policy 3b Fire Sprinklers. Continue to enforce the Fire Safety Ordinance requirements for sprinkler systems for new commercial/industrial and residential development and substantial remodels.

Facts in Support (SH Policies 3, 3a and 3c): The Novato Fire Protection District (NFPD) has reviewed the Project and recommended conditions of approval to ensure that the Project will be constructed and maintained in accordance with relevant NFPD and California Building Code standards.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with SH Policies 3, 3a and 3b.

Public Facilities and Services (PF) Policy

***PF Policy 3** Water Supply. *Work with the North Marin Water District to ensure an adequate water supply for new and existing development.**

Facts in Support (PF Policy 3): The North Marin Water District (NMWD) has reviewed the Project and determined that the NMWD has adequate facilities and infrastructure to serve the Project Site. Recycled water infrastructure will be included for outdoor irrigation purposes.

Based on the facts set forth above, and the Record as a whole, the Planning Commission finds the Project to be consistent with PF Policy 3.

EXHIBIT B

VILLAGE AT NOVATO MIXED-USE PROJECT

CONDITIONS OF APPROVAL

The Village at Novato Mixed-Use project (“Project”) is subject to complying with the following conditions of approval, which shall be implemented by the Applicant. Use of the term “Applicant” in this instance is inclusive of any and all successors in interest to the Project.

Initial Study/Mitigated Negative Declaration, Mitigation Measures:

1. Mitigation Measure BIO-1: Initiation of construction activities during the avian nesting season (February 1st through September 15th) shall be avoided to the extent feasible. If the commencement of construction activities begins during the nesting season, pre-construction nesting bird surveys shall be conducted within 14 days of initial ground disturbance or vegetation removal to avoid disturbance to active nests, eggs, and/or young of nesting birds. Surveys shall be performed throughout the graded portions of the Project Site and the surrounding 500 feet where accessible to detect nests of special-status, as well as non-special-status birds. If any active avian nests are found, an exclusion zone shall be established around any active nests where no construction would be allowed until a qualified biologist has determined that all young have fledged and are independent of the nest. The suggested sizes of exclusion zones will differ depending on species, location, and placement of nest, and will be at the discretion of the biologist. These surveys shall remain valid as long as construction activity is consistently occurring in a given area and shall be completed again if there is a lapse in construction activities of more than 14 consecutive days during the bird breeding season.
2. Mitigation Measure BIO-2: Impacts to jurisdictional aquatic features shall be offset through purchase of wetland/waters mitigation credits at a USACE, RWQCB, and/or CDFW-approved mitigation bank for creation or enhancement of wetlands at a minimum 1:1 ratio. Additional mitigation may be required under agency permits.
3. Mitigation Measure CUL-1: The Applicant shall conduct a Worker’s Environmental Awareness Program for all project personnel working in the project site. The City shall retain a qualified archaeologist who meets the Secretary of Interior’s Professional Qualification Standards for archaeology (National Park Service 1983) to conduct a training for all construction personnel on archaeological sensitivity prior to the commencement of any project work activities. The Worker’s Environmental Awareness Program training will include a description of the types of cultural material that may be encountered, cultural sensitivity issues, the regulatory environment, and the proper protocol for treatment of the materials in the event of a find.
4. Mitigation Measure CUL-2: Prior to the start of construction, the Applicant shall ensure a Discovery and Treatment Plan (Plan) is completed specific to this project. The Applicant shall retain a qualified archaeologist who meets the Secretary of Interior’s Professional

Qualification Standards for archaeology (National Park Service 1983) to prepare a Plan. The Plan will be prepared in consultation with the Federated Indians of Graton Rancheria and the City and shall be implemented in the event of an unanticipated discovery of Tribal cultural resources or human remains during construction. The Plan shall include City of Novato ordinance 4.7-3(b) regarding archaeological resources and is subject to review and acceptance by the City of Novato. The Plan will discuss the methodology and procedures to be undertaken should cultural resources or human remains be identified during project activities. The Plan shall include, at minimum, an overview of background context, a description of potential discoveries/cultural resources, protocols to be followed (including suspension of all earth-disturbing work in the vicinity of the find), appropriate treatment methods, a timeline of notification, guidance on significance evaluation, and reporting requirements.

5. Mitigation Measure CUL-3: Archaeological monitoring of Project-related ground-disturbing activities shall be conducted by a qualified archaeologist. Archaeological monitoring should be performed under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archaeology (National Park Service 1983). Monitors will have the authority to halt and redirect work should any archaeological resources be identified during monitoring. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for listing in the CRHR in accordance with the Plan detailed in CUL-2. Archaeological monitoring may be reduced to spot-checking or eliminated at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, or sediments being excavated are fill. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the Project Site and when ground disturbance will extend to depths not previously reached (unless those depths are in bedrock).
6. Mitigation Measure CUL-4: In the event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work within the immediate vicinity of the find shall halt and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service 1983) shall be contacted immediately to evaluate the resource in accordance with the treatment plan. If the resource is determined by the qualified archaeologist to be prehistoric, then a Native American representative shall also be contacted to participate in the evaluation of the resource. If the qualified archaeologist and/or Native American representative determines it to be appropriate, archaeological testing for CRHR eligibility shall be completed if the resource cannot be avoided. If the resource is eligible for the CRHR and significant impacts to the resource cannot be avoided via Project redesign, a qualified archaeologist shall prepare a data recovery plan tailored to the physical nature and characteristics of the resource, per the requirements of the California Code of Regulations (CCR) Guidelines Section 15126.4(b)(3)(C) and any relevant protocols included in the Discovery and Treatment Plan, prepared for this Project. The data recovery plan shall identify data recovery excavation methods, measurable objectives, and data thresholds to reduce any significant impacts to cultural resources related to the resource. Pursuant to the data recovery plan, the qualified archaeologist and Native American representative, as appropriate, shall recover and

document the scientifically consequential information that justifies the resource's significance. The City shall review and approve any data recovery plan as appropriate, and the resulting documentation shall be submitted to the regional repository of the California Historical Resources Information System, per CCR Guidelines Section 15126.4(b)(3)(C).

7. Mitigation Measure GEO-1: The following measures shall be implemented during ground disturbing activities:
 - Paleontological Worker Environmental Awareness Program
 - Unanticipated Discovery of Paleontological Resources

8. Mitigation Measure NOI-1: The Project Applicant shall reduce HVAC equipment noise levels at noise-sensitive uses through noise control measures such as, but not limited to:
 - Mechanical equipment screening (e.g., parapet walls of sufficient height to block line of sight)
 - Equipment setbacks
 - Silencers
 - Acoustical louvers
 - And other sound attenuation devices as made available

If a method other than mechanical equipment screening (e.g., parapet walls) is chosen, a project-specific design plan demonstrating that the noise level from operation of HVAC units would not generate noise levels that exceed 45 dBA L_{eq} at noise-sensitive receivers shall be completed.

Generally, blocking the line of sight from a noise source to a receiver will provide at least a 5 dBA reduction in source noise levels at the receiver (FHWA 2011).

9. Mitigation Measure TCR-1: An ESA shall be delineated around the area determined sensitive by the canine detection survey conducted on February 21, 2023 inclusive of an 8-foot buffer to account for the canine survey's margin of error. The ESA shall be marked with high visibility material to prevent any unauthorized construction equipment and/or personnel from disturbing the area. To ensure confidentiality, no specific identification will be made other than where the area is environmentally sensitive. Avoiding any ground disturbing work within the ESA as feasible, is the preferred option. One of the two following options shall be selected:
 - 1) *Preferred Option.* The site plan shall be modified to establish the ESA as an undisturbed landscape element, avoiding any excavation work within all areas of the ESA. Any excavation within 25-feet of the ESA shall be limited to constructing necessary for emergency vehicular access and circulation and shall be monitored by a qualified archaeologist and locally affiliated Native American monitor. If human remains and/or associated funerary items are identified, they shall be retained, treated, and repatriated as specified in Mitigation Measure CUL-2 (Discovery and Treatment Plan) and following NAGPRA guidelines. No further site treatment or investigations

are required for areas left undisturbed or where only fill materials are imported for ground cover and no excavation occurs.

- 2) *Alternate Option.* No modifications made to the site plan, and all ground disturbing work conducted within the ESA (such as excavation) shall be done with manual equipment and monitored by a qualified archaeologist and locally affiliated Native American monitor. Soils subject to disturbance within the ESA shall be screened through a 1/8" mesh by a qualified archaeologist to confirm the presence/absence of any cultural resources, including fragmented human remains. If human remains and/or associated funerary items are identified, they shall be collected, treated, and repatriated as specified in Mitigation Measure CUL-2 (Discovery and Treatment Plan) and following NAGPRA guidelines. No further site treatment or investigations are required for areas left undisturbed or where only fill materials are imported for ground cover and no excavation occurs.
10. Mitigation Measure TCR-2: Native American monitoring of Project-related ground-disturbing activities shall be conducted by a local Native American consultant. Native American monitoring should be provided by a locally affiliated tribe. Monitors will have the authority to halt and redirect work should any tribal cultural resources be identified during monitoring. If tribal cultural resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find evaluated for listing in the CRHR. Native American monitoring may be reduced to spot-checking or eliminated at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, or sediments being excavated are fill. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are in bedrock).

The following conditions of approval shall be met to the satisfaction of the Novato Planning Division:

11. Commercial uses within the mixed-use building shall conform to all applicable requirements of Novato Municipal Code Division 19.22 (General Performance Standards), including but not limited to noise, odor, lighting and glare.
12. Commercial uses within the mixed-use building shall be limited to operating between the hours of 6 AM and 10 PM so as not to unnecessarily disturb residents of the residential units within the Project. Any proposed changes to business hours shall be submitted to the Zoning Administrator for review and approval. Approval of an amendment to this use permit may be required prior to a change in business hours.
13. Commercial uses within the mixed-use building shall train employees to exercise care when conducting activities (e.g., emptying trash) at the rear of the mixed-use building between the hours of 6 AM and 10 PM as to not unnecessarily disturb residents of the residential units within the Project.

14. The use permit is subject to the post-approval procedures codified in Novato Municipal Code Section 19.42.050.G and Division 19.44 regarding changes to use permit conditions of approval or revocation should business activities in the Project's commercial space result in an unforeseen public nuisance(s).
15. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permit(s), certificate(s) of occupancy or other entitlements.
16. The Applicant shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02. The fee amount and timing of payment shall be determined pursuant to the methodology prescribed in Novato Municipal Code Section 9-20.

The following conditions of approval shall be met to the satisfaction of the Novato Public Works Department:

17. Applicant shall design and construct all necessary and required improvements and facilities in accordance with Chapter V – Development Standards of the Novato Municipal Code (NMC) and the Uniform Construction Standards All Cities and County of Marin, unless specific design exceptions have been approved. Approval of a site plan depicting improvements that do not conform to the NMC does not constitute approval of a design exception, unless explicitly stated herein or in another approved City resolution.
18. Applicant shall be responsible for all City plan check and inspection costs. The Applicant shall enter into a Cost Recovery Agreement and deposit funds with the City upon the initiation of plan check services. The amount of the initial deposit shall be determined by the City Engineer. Additional funds may be required based upon actual plan check and inspection costs.
19. Applicant shall submit for review and approval Improvement Plans prepared by a California Registered Civil Engineer for all necessary and required on-site and off-site public and private improvements. The Improvement Plans shall show all existing and proposed utilities, above and below ground, including water, sanitary sewer, storm sewer, communication lines, electricity, natural gas, transformers, vaults and meters. The final plan set shall include all civil, landscape and joint trench drawings under a single cover sheet. Improvement Plans must be approved by the City Engineer prior to any on-site or off-site construction. An Encroachment Permit is required for any work within City right of way. An Encroachment Permit will not be issued prior to the approval of the Improvement Plans.
20. All existing and proposed electrical and communications lines, both on the site and along its frontages, shall be placed underground at the Applicant's expense, except for the existing overhead high-voltage electrical transmission lines and associated utility poles. All pull boxes, junction structures, service cabinets, vaults, valves and similar devices shall be installed behind the back edge of walkways within the City right-of-way or within a public

utility easement, at locations approved by the City Engineer. Pad mounted/above ground facilities are permitted and shall be painted a color approved by the City. New improvements within existing and proposed utility easements shall be subject to the approval of the appropriate utility company.

21. Unless otherwise explicitly permitted, all existing wells, septic tanks and/or underground fuel storage tanks shall be abandoned under permit and inspection of Marin County Department of Environmental Health Services or other designated agency. If there are none, the project engineer shall provide a letter describing the scope of the search done to make this determination. A letter from the Civil or Geotechnical Engineer stating that they have field reviewed the property and found no evidence of existing wells, septic tanks and/or underground fuel storage tanks is sufficient. This condition shall be satisfied prior to approval of the Improvement Plans. No new wells or septic systems are permitted on the subject property.
22. A detailed design level Geotechnical Report shall be prepared and submitted for review with the initial submittal of the Improvement Plans. The report shall address, at a minimum, potential for liquefaction, R-values, expansive soils and seismic risk. The improvement plans shall incorporate all design and construction criteria recommended in the Geotechnical Report. Prior to City approval of the Improvement Plans, the geotechnical engineer shall sign off on the cover sheet confirming that the plans are in conformance with their recommendations.

If at any time, prior to final acceptance of the project improvements, the City Engineer requests an independent geotechnical investigation and report, then an independent geotechnical engineer, shall be retained by the City at the applicant's expense, to conduct requested investigations.

23. A final drainage study prepared by a California Registered Civil Engineer shall be submitted for review with the initial submittal of the Improvement Plans. The report shall include hydrologic and hydraulic calculations, narrative and exhibits to support the design and sizing of all public and private drainage facilities including storm drains and detention facilities. The post-development peak runoff rate shall not exceed the pre-development peak runoff rate for the 25-year storm. The report shall address existing downstream storm drain facilities and hydraulic conditions which may impact the design of proposed facilities and improvements. This study shall include a hydraulic grade line analysis of the existing downstream storm drain. Analyses of the conveyance of onsite and downstream facilities shall be based on the 25-year storm. The report shall also include an analysis of the 100-year storm overland flow and potential inundation.
24. Applicant shall submit for review and approval a final Stormwater Control Plan prepared in accordance with the current Bay Area Stormwater Management Agencies Association (BASMAA) Post Construction Manual. Site improvements shall incorporate Low Impact Design (LID) principles and permanent post-construction storm water pollution BMPs. The Stormwater Control Plan shall be submitted for review with the initial submittal of the Improvement Plans.

25. Prior to the approval of the Improvement Plans and prior to the issuance of a grading permit, the applicant shall obtain all necessary permits, approvals and/or clearances from any other regulatory agencies with jurisdiction over the project, including but not limited to the Marin County Flood Control District, Regional Water Quality Control Board, Department of Fish and Game and U.S. Army Corp of Engineers. A complete set of improvement plans shall be submitted to all agencies, districts, and utilities affected by, or providing service to the development, for review and comment.
26. The Applicant shall obtain and approval from Novato Fire Protection District (NFPD) for requirements for emergency vehicular access and appropriate posted signage and markings. Applicant shall locate signs and red painted curbs as required by NFPD to the satisfaction of the City Engineer.
27. Prior to City approval of the Improvement Plans, Applicant shall obtain signatures from representatives of the Novato Fire Protection District and the Novato Sanitary District on the final Improvement Plans acknowledging their review.
28. The Applicant shall design and construct all new pedestrian walkways, ramps and accessible parking spaces to meet current Americans with Disabilities Act Accessibility Guidelines, California Title 24 requirements, and City maximum cross-slopes and grades.
29. All outside garbage facilities shall be designed to be fully covered with a roof meeting Marin County's storm water pollution prevention best management practices.
30. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the improvement plans.
31. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
32. Prior to the approval of the Improvement Plans, the Applicant shall submit a copy their Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) for coverage under the State Water Resources Control Board's General Construction Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order 2009-0009-DWQ).
33. The Applicant shall submit a complete set of Improvement Plans, including both onsite and all offsite improvements, prepared by a registered Civil Engineer (Engineer of Record) in substantial conformance with the preliminary civil plans (7 sheets) prepared by Adobe Associates, Inc., dated October 20, 2021, referred to herein as "Preliminary Plans".
34. All on-site streets, parking lots, sidewalks, streetlights, storm drain facilities, stormwater quality facilities, landscaping and other amenities shall be privately owned and maintained.
35. Applicant shall construct all of the Public Improvements generally as shown on the Preliminary Plans except for the Olive Avenue widening and frontage improvements, which

will be constructed by the City. The Public Improvements to be constructed by the Applicant are more specifically described below.

- a. Widen Redwood Boulevard along the entire frontage of the parcel to accommodate a new diagonal parking lane, a 6-foot wide Class 4 bicycle path (with a minimum 2-foot wide separation from face of curb) and an 8-foot wide sidewalk. Frontage improvements shall also include curb, gutter, streetlights and landscaping. The Class 4 bicycle path shall include appropriate signing and pavement markings and reflective signage shall be added to the existing utility poles
 - b. The new parking lanes shall include a total of at least two ADA compliant accessible parking spaces, one of which shall be van accessible.
 - c. Install storm drain facilities and appurtenances within Redwood Boulevard to accommodate runoff from the road widening and in accordance with the final approved drainage report. Underground the existing drainage ditch along the Redwood Boulevard frontage and replace a portion of it as necessary.
 - d. Construct permanent post-construction stormwater treatment facilities to accommodate the road widenings and in accordance with the final approved SWCP.
 - e. Relocate the existing sanitary sewer running through the parcel into the public right-of-way. Connect the sewer lateral from the adjacent property to the south to the new sanitary sewer/
36. The Applicant shall be responsible for the City's actual costs for constructing public improvements along the Olive Avenue frontage of the parcel. Said improvements to include underground the existing drainage ditch, undergrounding the existing overhead utilities, widening the roadway, constructing curb, gutter and sidewalk, and installing streetlights. The Applicant shall also be responsible for the City's costs for providing offsite stream and wetlands mitigation in proportion to the length of their Olive Avenue frontage as it relates to the total length of the ditch to be undergrounded, plus any the costs of any off-site mitigation provided for wetlands removed on their property.
37. Prior to a City Council decision on the Project, the Applicant shall coordinate with the City of Novato's Public Works Department in forming the framework of an appropriate cost-sharing agreement for these improvements that will be constructed by the City. Said cost-sharing agreement shall be executed prior to the issuance of any building permits associated with the Project.
38. Applicant shall construct all of the Private Improvements generally as shown on the Preliminary Plans and more specifically described below.
- a. Install onsite storm drain facilities in accordance with the final approved drainage report.

- b. Construct the permanent on-site and offsite private post-construction stormwater treatment facilities in accordance with the approved final Stormwater Control Plan.
39. Prior to issuance of any building permit, Applicant shall submit for review and approval by the City Engineer, a Post Construction Stormwater Operations and Maintenance Plan that provides a plan sheet showing all storm drain and water quality infrastructure that is to be maintained (within all phases), along with detailed instructions and schedules for the ongoing maintenance and operation of all post-construction stormwater BMPs. Once approved and prior to issuance of any building permit, the property owner shall enter into a Stormwater Maintenance Agreement with the City that provides the terms, conditions, and security associated with the ongoing requirements of the Post Construction Stormwater Best Management Practices.
40. Construction stormwater pollution prevention measures as indicated in the SWPPP shall be consistent with the details in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Storm Water Quality Handbook Construction Site BMPs Manual. A Qualified SWPPP Practitioner shall be responsible for implementing the measures at the site and performing all required monitoring and inspection/maintenance/repair activities. The project applicant shall also prepare a Rain Event Action Plan (if required based on the determined risk level) as part of the SWPPP.
41. Construction activities shall be limited to the days and hours stipulated in Novato Municipal Code 19.22.070B. City established inspection hours are Monday through Thursdays, and alternating Fridays from 7 a.m. until 4 p.m. except on City recognized holidays. Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.
42. A City of Novato Encroachment Permit shall be obtained prior to any grading, trenching, pavement, construction of improvements or any other work in the public right-of-way.
43. If any hazardous materials are encountered during the construction of this project, all work shall be immediately stopped and the Marin County Environmental Health Service Department, the Novato Fire Protection District, and the City Inspector shall be notified immediately. Work shall not proceed until clearance has been issued by all of these agencies.
44. Upon completion of the project and prior to acknowledgment of completion, all new storm drains 15" in diameter and larger shall be professionally televised and a video of the recording delivered to the City Engineer for review. The video shall indicate the pipe being televised, indicate station points along each pipe, and shall have the bottom of the pipe at the bottom of the monitor when viewed. The televised speed shall be slow enough to enable viewers to ascertain the pipe condition and the speed shall be reduced or paused as necessary at sags, gaps, obstructions and damaged areas of the pipe. Prior to acknowledgment of completion of the project, pipe damage and obstructions shall be repaired to the satisfaction of the City Engineer.

45. The Applicant shall keep adjoining public streets free and clean of project dirt, mud, materials, and debris during the construction period, as is found necessary by the City Engineer. The Applicant's contractor shall provide dust control seven (7) days a week, twenty-four (24) hours a day and this provision shall be noted on the plans.
46. The following shall be added to the general notes on the civil plans, "All roads used within the City of Novato during construction shall be cleaned daily, or more often as required by the City Engineer, of all dirt and debris spilled or tracked onto the City streets, or private driveways."
47. Prior to final preparation of the subgrade and placement of base materials, all underground utilities shall be installed, and service connections stubbed out behind the sidewalk. Public utilities, Cable TV, sanitary sewers and water lines, shall be installed in a manner that will not disturb the street pavement, curb, gutter and sidewalk, when future service connections or extensions are made.
48. Where soil or geologic conditions encountered in grading operations are different from that anticipated in the soil and/or geologic investigation report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. Additionally, if field conditions warrant installation of any subdrains, the location, size and construction details must be provided to the City for review and approval prior to construction.
49. Utilities to be abandoned shall be removed or completely filled with suitable material and capped to the approval of the applicable utility agency and to the approval of the City Engineer.
50. After all of the new underground utilities within existing public streets have been installed, the entire affected areas shall be milled and repaved to present a neat finished pavement area. Multiple trench patches are not acceptable.
51. Upon completion of the building and site improvements, the Applicant shall clean, repair, or reconstruct the curb, gutter, and sidewalk along the entire frontage of the developed property as may be required by the City Engineer to conform to the City standards prior to receiving an occupancy permit for the building.
52. Prior to occupancy of any building in any phase or tract, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work within that phase or tract has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
53. Prior to occupancy of any building in any phase or tract, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements within that

phase or tract were constructed and inspected in substantial conformance with the approved plans and City Standards.

54. Prior to occupancy of the last building in any phase, the applicant shall provide a mylar and digital copy of the Improvement Plans for that phase that includes all as-built or field changes.

The following conditions of approval shall be met to the satisfaction of the Novato Building Division:

55. The Applicant shall obtain a building permit issued by the City of Novato Building Division prior to commencement of any construction of any structures.
56. The Project shall comply with all the requirements of NMC 19.22.070 (Noise and Construction Hours).

The following conditions of approval shall be met to the satisfaction of the North Marin Water District (NMWD):

57. The Owner/Applicant must apply to the NMWD to enter into an agreement and complete financial arrangements for new water use facilities. Review of new and existing water use facilities are required.
58. Installation of both in-tract potable and recycled water mains are required. Provisions shall be made, as directed by the NMWD to provide for connection to the existing recycled water distribution main in Redwood Boulevard.
59. The Property Owner must dedicate easements where necessary for NMWD facilities (both potable water and recycled) to serve this Project proposal. Separate fire services would be required for commercial structures and separate recycled water meters for landscaping demands would also be provided.
60. The Project must conform to NMWD Regulation – 15 Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
61. Installation of above-ground, reduced pressure principal backflow prevention device(s) at the meter(s) may be required in accordance with the NMWD Regulation 6 and California Department of Health Regulations (Title 17). Upon installation, an inspection report (device testing) must be completed and returned to the NMWD prior to the commencement of business activities.

The following conditions of approval shall be met to the satisfaction of the Novato Sanitary District (NSD):

62. The Project will need to make a determination of Public vs Private onsite sanitary sewers. If the onsite sanitary sewers are to be Public, then the Project will be required record dedicated exclusive ten-foot-wide sanitary sewer easements to be held by the Novato Sanitary District.
63. The District will require Buildings B&C, (152 apartments) be connected with an eight-inch sewer system, which will then connect to the District's MH H15086 in the Olive Ave right of way.
64. The eight-inch onsite sanitary sewer system will be constructed to NSD standards and should be located in the center of the parking travel ways to be accessible to maintenance equipment.
65. The District will require that Building A, (Commercial Mixed Use), be constructed with a Domestic sewer system and a Commercial Grease Waste System, (GWS). There are at least three Commercial suites that could develop into Restaurants or Food Service. The GWS needs to be accessible to all of the proposed Commercial suites, in the event that they develop into Food Service Establishments (FSEs) in the future. As a component of the GWS, the project will install a 1,250-gallon minimum, in ground interceptor tank at the South end of Building A. The discharge line of the interceptor tank can then be connected to the public sanitary sewer. The remaining twenty-six residential apartments and the domestic flow for the Commercial suites should be connected to the proposed new manhole at the north/west property corner being constructed by the adjacent Marriott Residence Inn project.
66. The Project's proposed sewer main extension shown within Redwood Blvd. makes an angle to the east and then runs south parallel to the right of way of Redwood Blvd. The District will require that the sewer main extension not diverge from the previous downstream sewer main alignment and stay consistent to the right of way of Redwood Blvd. The preferred sewer main alignment may require that the proposed storm drain structure on Redwood Blvd be relocated some distance to the east to avoid conflict.
67. The portion of the proposed sewer improvements reconnecting the Trader Joe's building resides within a private service road that is off the Project's property. The District assumes that the reconnection of the Trader Joe's building will be with a private sewer line. The District cannot permit the modification of another property's private lateral. The District will require written proof of permission that the Project has access to modify the Trader Joe's private lateral prior to issuing a District lateral modification permit.
68. Trash enclosures onsite must have a sewer drain that is connected to the District's minimum standard size grease interceptor prior to connection to the sanitary sewer. The trash enclosures must also be covered, to prevent rainwater from entering the sanitary sewer system.

69. The existing six-inch sewer within the Project's parcel shall not be abandoned until the District's Board has accepted the Redwood Blvd replacement sewer main.
70. The District will not allow the existing sewer main to be abandoned until the sanitary sewer easement proposed by the Marriott project is dedicated to the District and recorded with the Marin County Recorder.
71. Prior to the issuance of a District sewer main extension permit, the Project must complete a District sewer main extension permit application, provide construction bonding and pay all appropriate fees prior to receiving Board approval of the sewer main extension plans.

The following conditions of approval shall be met to the satisfaction of Pacific Gas and Electric (PGE):

72. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
73. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
74. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe. Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas. Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments). No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.
75. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

76. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So, to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24-inch-wide trench being dug along a 36-inch pipeline, the centerline of the trench would need to be at least 54 inches [$24/2 + 24 + 36/2 = 54$] away or be entirely dug by hand.). Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away. Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
77. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations. For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.
78. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line ‘kicker blocks’, storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement. If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.
79. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E’s ability to access its facilities.
80. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16-foot-wide gate for vehicular access. Gates will be secured with PG&E corporation locks.
81. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection

systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

82. Cathodic Protection: PG&E pipelines are protected from corrosion with an "Impressed Current" cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.
83. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.
84. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.
85. Buildings and Other Structures: No buildings or other structures including the footprint and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E's transmission easement shall be designated on subdivision/parcel maps as "RESTRICTED USE AREA – NO BUILDING."
86. Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E's review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
87. Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E's facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.

88. Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.
89. Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
90. Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case-by-case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
91. Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.
92. Streets and Roads: Access to facilities must be maintained at all times. Streetlights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.
93. Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.
94. Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.
95. Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.
96. Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as

well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.