

PLANNING COMMISSION
RESOLUTION NO. 2024-014

RESOLUTION OF THE NOVATO PLANNING COMMISSION APPROVING A USE PERMIT, DESIGN REVIEW, AND DENSITY BONUS FOR THE LODGE ON NOVATO CREEK, A RESIDENTIAL CARE FACILITY FOR THE ELDERLY ON AN APPROXIMATELY 2.12-ACRE SITE LOCATED AT 1787 GRANT AVENUE (APNS 141-201-12 AND 141-201-48)

WHEREAS, the City of Novato (“City”) received applications from Fulcrum Real Estate and Development (“Applicant”) requesting use permit, design review, and density bonus approvals for The Lodge on Novato Creek, a proposed residential care facility for the elderly (“RCFE”) located at 1787 Grant Ave, APNs 141-201-12 and 141-201-48 (“Project Site”), which is owned by Michael L. Meyer Company (the “Property Owner”); and

WHEREAS, the proposed RCFE is comprised of 55 assisted living units and 31 memory care beds in a three-story, 73,000± square-foot building, and ancillary improvements (“Project”); and

WHEREAS, the Applicant has requested a density bonus and waivers and reductions pursuant to Government Code Section 65915 (“Density Bonus Law”); and

WHEREAS, by separate resolution adopted prior hereto, the Planning Commission determined the Project is exempt from additional environmental review pursuant to the California Environmental Quality Act (CEQA) and the City of Novato Environmental Review Guidelines based on CEQA Guidelines Section 15183; and

WHEREAS, the Design Review Commission held a duly noticed public hearing on July 17, 2024, to consider the design aspects of the Project. The Design Review Commission recommended the Planning Commission approve the design of the Project; and

WHEREAS, notices providing the date, time, and location of the public hearing regarding the Project were sent to the Marin County Clerk, public agencies serving the Project, all affected property owners within 600 feet of the boundaries of the Project Site pursuant to Novato Municipal Code Section 19.58.020, all persons requesting notice, and published in the Marin Independent Journal, a newspaper of local circulation, on November 7, 2024; and

WHEREAS, the Planning Commission held a duly noticed public hearing on November 18, 2024, to consider and receive public testimony on the Project.

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

Section 1. Record

The Record of Proceedings (“Record”) upon which the Planning Commission bases its decision on the Project includes, but is not limited to: (1) the staff reports, City files and records and other documents, prepared for and/or submitted to the City regarding the Project and the Project's associated development entitlement requests, (2) the evidence, facts, findings and other determinations set forth in this resolution, (3) Novato General Plan 2035, including the December 2022 Housing Element, and its certified EIR and associated Addendum, and the Novato Municipal Code, (4) all designs, plans, studies, data and correspondence submitted to the City in connection with the Project and the Project's associated development entitlement requests (5) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the CEQA determination, the Project, and the Project's associated development entitlement requests (6) all other matters of common knowledge to the Planning Commission including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City and its surrounding areas.

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

Section 2. Findings

Design Review Findings

The Planning Commission hereby makes the following findings as required by Section 19.42.030 F. of the Novato Municipal Code with the respect to the Project’s design, based on the findings and recommendation of the Novato Design Review Commission. In this instance, the purpose of Design Review, consistent with the Housing Accountability Act (Government Code Section 65589.5), is to ensure the Project’s design meets all applicable objective development standards contained in Novato General Plan 2035 and the Novato Municipal Code. Where a project is found to be consistent with applicable objective development standards, notwithstanding any waiver or reduction of development standards requested pursuant to Density Bonus Law, then the project is likewise consistent with the findings prescribed by NMC Section 19.42.030 F. as listed below.

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.
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 of Findings Nos. 1 & 2

The Project has been reviewed for compliance with applicable objective development standards detailed in Novato General Plan 2035 and the Novato Municipal Code; there is no specific plan, master plan, or precise development plan applicable to the Project Site. The Project was presented to the Design Review Commission (DRC) at a duly held public hearing, and the DRC reviewed the Project and recommended the Planning Commission approve the design aspects of the Project on the basis it substantially complies with all applicable objective development standards with exception of those that are subject to a waiver or reduction request pursuant to Density Bonus Law and two minor design inconsistencies related to landscape planter curbing and tree root barriers.

The Planning Commission has similarly reviewed the Project and determined the Project complies with the majority of applicable objective development standards, with exception of those standards subject to waivers and reductions pursuant to Density Bonus Law and the two minor landscape design inconsistencies noted above. Conditions of approval, attached hereto as Exhibit B, are included to ensure correction of the noted landscape design inconsistencies.

Based on the observations above, the Project is consistent with Design Review Findings Nos. 1 and 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 of Finding

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

Based on these observations and a review of the Project's plans, the Project is consistent with Design Review Finding No. 3.

Use Permit Findings

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 memory care component of the Project.

1. The proposed use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding

The Project is an RCFE including 31 memory care beds, which represent a commercial land use. An RCFE providing memory care services is allowed on properties assigned the Medium Density Multiple-Family Residential (R10) land use designation and R10 zoning district subject to approval of a use permit. The Project's memory care component has been reviewed for consistency with all applicable policies of Novato General Plan 2035, as documented in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A lists each applicable policy of Novato General Plan 2035 and details facts supporting the Project's consistency therewith. Based on the findings in Exhibit A and the Record as a whole, the Project's memory care component is consistent with Use Permit 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 of Finding

The zoning district applicable to the Project Site is Planned District (PD), which typically requires approval of a master plan and precise development plan. However, since the Project qualifies as a residential development pursuant to the Housing Accountability Act (Government Code Section 65589.5), the City cannot require approval of a master plan and precise development plan. Moreover, Novato Housing Element Program 3.I states that a master plan and precise development plan are not required of a housing development project to comply with PD zoning requirements. Therefore, the Project has been reviewed against the standards applicable to land uses permitted in the R10 zoning district, which is the traditional implementing zoning for the R10 land use designation of Novato General Plan 2035.

The R10 zoning district permits RCFEs featuring memory care services with a use permit. Again, only the memory care component of the Project is subject to securing a use permit. Accordingly, the Project's memory care component has been reviewed for consistency with all applicable provisions of the Zoning Ordinance focusing on the operational aspects of this activity. Based on this review, the memory care component complies with all applicable provisions of the Zoning Ordinance.

Based on the observations above and the Record as a whole, the Project is consistent with Use Permit 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.
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 of Finding

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

Conditions of approval are included to ensure the Project will be developed consistent with applicable development standards, which will ensure the Project will not be detrimental or injurious to property and improvements in the neighborhood. The Project has been reviewed for compatibility with existing and future land uses in the vicinity, including single- and multi-family housing and variety of retail and service commercial uses, such as retail stores, restaurants, and offices. The Project's memory care component is a low-intensity land use and is compatible with existing uses and those future uses contemplated in *General Plan 2035*, including single- and multi-family housing and retail and service commercial uses.

Based on the above observations above and the Record as a whole, the Project is consistent with Use Permit Finding Nos. 3, 4, and 5.

Density Bonus and Development Standards Waivers/Reductions Findings

The Applicant submitted a request for a thirty (30) percent density bonus and four (4) waivers/reductions of development standards pursuant to Government Code Section 65915 on the basis that five (5) of the Project's 55 assisted living units will be reserved at affordable rents. Specifically, one (1) assisted living unit will be reserved at the low income level and four (4) assisted living units at the very-low income level. The Planning Commission makes the following findings with respect to the Applicant's density bonus request:

1. The assisted living units represent residential dwellings since they include individual sleeping, sanitation, and cooking (kitchenettes) accommodations;
2. The Project represents a housing development project under the Housing Accountability Act (Government Code Section 65589.5);

3. The Project will reserve a sufficient number of assisted living units as affordable housing at the appropriate income levels to qualify the proposal for a thirty (30) percent density bonus; and
4. The Project, by qualifying for a density bonus, is likewise eligible for waivers and reductions of development standards pursuant to Density Bonus Law.

Waivers and reduction 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 waivers or reductions of development standards:

1. **Maximum Floor Area Ratio (FAR).** Waive the maximum 0.6 FAR applicable to RCFEs on sites assigned the R10 land use designation and zoning classification. The Project has an FAR of 0.78.

To comply with the City's 0.6 FAR limit, the Applicant would need to reduce the size of the proposed RCFE building, thereby causing a commensurate reduction in the number of assisted living units. Given this circumstance, complying with the otherwise applicable FAR limit would physically preclude development of the number of assisted living units the Applicant is entitled to develop under Density Bonus Law.

2. **Maximum Building Height.** Waive the maximum 35-foot building height of the R10 zoning district. The building's height is 39 feet to the main roof ridgeline and 40 feet - 6 inches to the elevator penthouses (or overruns).

The proposed three-story building includes two elevators with a peak height of 40 feet – 6 inches inclusive of the elevator overruns. The elevator overruns cannot be reduced to comply with the 35-foot height limit and still accommodate a three-story building. Accordingly, reducing the height of the building would cause a commensurate reduction in the number of assisted living units in the Project. Given this circumstance, complying with the otherwise applicable height limit would physically preclude development of the number of assisted living units the Applicant is entitled to develop under Density Bonus Law.

3. **Parking Lot Perimeter Landscaping.** Parking areas adjoining a public street require a 10-footwide landscaped planting strip between the street right-of-way and the parking area. The Project includes a landscape strip adjacent to Grant Avenue at a reduced width of 5-feet wide.

Complying with the 10-foot-wide street frontage landscape strip would cause reduction in the size of the RCFE building's footprint due to site constraints, including providing an emergency access road around all sides of the building and the location of Novato Creek. The proposed 5-foot-wide landscape strip along the Grant Avenue frontage will provide some vegetation between the site improvements and the Grant Avenue improvements while also allowing the Project to be constructed with the proposed number of assisted living units. Strict enforcement of the 10-foot-wide landscape strip would result in a reduced number of assisted living units, thereby physically

precluding development of the number of assisted living units the Applicant is entitled to develop pursuant to Density Bonus Law.

4. **Parking Lot Interior Landscaping.** Surface parking lots are required to include planter areas at the ends of parking aisles and provide a landscape finger for at least every eight (8) parking stalls. The Project is deficient one (1) landscape finger.

The Applicant has proposed 29 parking stalls to accommodate on-site parking demand for employees and residents of the Project. The proposed amount of parking is consistent with the City's parking ratio for an RCFE. As previously discussed, the Project Site is constrained due to the presence of Novato Creek on the south and west sides of the site and the need to provide access for emergency vehicles on all sides of the building. Adding a landscape finger would cause a reduction in the level of parking below what is required for an RCFE, which in turn would result in the loss of one (1) assisted living unit to maintain consistency with the remaining amount of parking. Given this circumstance, complying with the otherwise applicable landscape finger requirement would physically preclude development of the number of assisted living units the Applicant is entitled to develop under Density Bonus Law.

The Planning Commission finds the Applicant has provided sufficient information and justification for the requested waivers or reductions of development standards. Additionally, the Planning Commission finds the requested waivers or reductions of development standards would not have a specific adverse impact upon public health or safety.

Section 3. Design Review, Use Permit, and Density Bonus Decision

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Planning Commission hereby approves the design review, use permit, and density bonus requested for the Project as depicted on the architectural, landscape, and electrical plans drawn by Lenity Architecture, Inc., revised October 15, 2024, and the civil engineering plan set drawn by Phillippi Engineering, dated January 25, 2024 (totaling 32 plan sheets), based on the facts and findings set forth herein and in Exhibit A, and subject to the conditions of approval noted below and included in Exhibit B.

Section 4. Conditions of Approval

1. The Project shall comply with the conditions of approval specified in Exhibit B.
2. **Indemnity and Time Limitations**
 - a. The Applicant, property owner, and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City and its agents, officers, attorneys, and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys, or employees to attack, set aside, void, or annul the Planning Commission's decision at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses

incurred in connection with such action whether incurred by the Applicant, property owner, and/or any successor in interest, the City, and/or parties initiating or bringing such action.

- b. The Applicant, property owner and any successor in interest, whether in whole or in part, shall defend, indemnify, and hold harmless the City, its agents, employees, and attorneys for all costs incurred in additional investigation of or study of, or for supplementing, preparing, redrafting, revising, or amending any document, if made necessary by said legal action and the developer desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents in a form and under conditions approved by the City Attorney.
- c. In the event that a claim, action, or proceeding described in no. a or b above is brought, the City shall promptly notify the Applicant, property owner, and any successor in interest of the existence of the claim, action, or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action, or proceeding; the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with the developer in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the Applicant, property owner, and/or any successor in interest has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the Applicant, property owner, and/or any successor in interest.
- d. The Applicant, property owner, and any successor in interest, whether in whole or in part, indemnifies the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.
- e. Unless a shorter limitation period applies, the time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure, Section 1094.6.
- f. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), the conditions constitute written notice of a statement of the amount of such fees and a description of dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

Passed and adopted at a special meeting of the Planning Commission of the City of Novato held on the 18th day of November 2024, by the following vote:

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

NOES: Commissioner Tiernan

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 18th day of November 2024.

Curtis Havel

Chair Curtis Havel

Attachments

Exhibit A – General Plan Consistency Findings

Exhibit B – Conditions of Approval

EXHIBIT A

THE LODGE ON NOVATO CREEK 1787 GRANT AVENUE (APNS 141-201-12 AND 141-201-48)

NOVATO GENERAL PLAN CONSISTENCY FINDINGS

The Planning Commission hereby finds the Project is consistent with the Novato General Plan, including, but not limited to, the following applicable General Plan policies and programs:

NOVATO GENERAL PLAN 2035

LAND USE CHAPTER

LU 1 Implementation of Land Use Map. Implement the Land Use Map (GP-1) and Land Use Designations (Table GP-3) by approving development and conservation projects consistent with the adopted land use designations, densities, and intensities. Ensure consistency between the General Plan, Zoning Ordinance, and other land use regulations.

LU 1b Development Consistent with General Plan. Allow development at any density within the range shown by the Land Use Designations Map provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities (top of stated density range applied to total gross acreage) may in some cases be achieved, but there is no guarantee of achieving the maximum density.

Facts in Support: The Project Site has a land use designation of Medium Density Multiple-family Residential (R10). The Project is an RCFE, which is a land use allowed under the R10 land use designation. The Project includes 55 assisted living units and 31 memory care beds on a 2.12-acre Project Site. The Project's assisted living component exceeds the maximum density of the R10 land use designation due to the application of a density bonus pursuant to Density Bonus Law. The Project complies with the requirements of Density Bonus Law. Therefore, the City is compelled to allow an increase in density above the maximum density the R10 land use designation. Accordingly, the Project cannot be found to be inconsistent with the R10 land use designation on the basis it receives a density bonus.

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

LU 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: 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 will 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 serving the Project on an individual or cumulative basis. The Applicant will pay development impact fees as applicable to the Project.

Based on the facts set forth above and the Record as a whole, the Project is consistent with and advances Policy LU 4.

LU 6 Elder Care and Housing. Promote the development of housing to meet the needs of an aging population, including group homes and residential care facilities.

Facts in Support: The Project is an RCFE providing 55 assisted living units and 31 memory care beds. The Project includes four (4) assisted living units that will be affordable to individuals at the very low-income level and one (1) unit that will be affordable to individuals at the low-income level.

Based on the facts set forth above and the Record as a whole, the Project is consistent with and advances Policy LU 6.

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

Facts in Support: The Applicant submitted a Cultural Resources Report to comply with this policy and with the General Plan 2035 Final EIR mitigation monitoring and reporting program. Conditions of approval are included to ensure consistency with this policy.

Based on the facts set forth above and the Record as a whole, the Project is consistent with and advances CC Policy 2.

CC 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: The Applicant submitted a Biological Resources Assessment (BRA) in compliance with this policy and to comply with the General Plan 2035 Final EIR Mitigation Monitoring and Reporting Program. The BRA includes an assessment of the potential project impacts on biological resources, including Novato Creek. Conditions of approval are included to ensure the Project will not adversely impact biological resources.

Based on the facts above and the Record as a whole, the Project is consistent with and advances Policy CC 4.

CC 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.

CC 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: The Project is subject to the Housing Accountability Act (Government Code Section 65589.5). As such, the Project is only subject to complying with applicable objective development standards. If a project is found to be consistent with applicable objective development standards, notwithstanding any waiver or reduction of development standards requested under Density Bonus Law, then the project is likewise consistent with CC Policies 12 and 13.

The Project was presented to the Design Review Commission (DRC) which found the design aspects of the Project to substantially comply with all applicable objective development standards with exception of those subject to a waiver or reduction request pursuant to Density Bonus Law and two minor design inconsistencies related to landscape planter curbing and tree root barriers. The Planning Commission similarly determined the Project complies with the majority of applicable objective development standards, with the exception of those standards for which the Applicant has requested waivers and reductions pursuant to Density Bonus Law and the two minor landscape design inconsistencies noted above. Conditions of approval, attached hereto as Exhibit B, are included to ensure correction of the noted landscape design inconsistencies.

Based on the facts above and the Record as a whole, the Project is consistent with and advances policies CC 12 and 13.

HOUSING ELEMENT

Program 1.E Facilitate and monitor pipeline housing project. To ensure completion of the approved/entitled (i.e., pipeline) projects identified in Table B-3 of Appendix B (Housing Capacity Analysis and Methodology) within the planning period, the City will monitor project progress towards completion and will coordinate with applicants to facilitate remaining approvals and permits. If a pipeline project is not approved, the City will ensure adequate capacity for the remaining RHNA by each income category is maintained at all times consistent with SB 166 (No Net Loss). Annually, and coinciding with preparation of the Annual Progress Reports (Program 1.C), the City shall evaluate remaining pipeline projects and consider on a project-by-project basis what appropriate actions might be taken to facilitate their completion within the planning period, including but not limited to assignment of additional staff and technical assistance for project applicants. At the midpoint of the Cycle, if the City determines that a pipeline project is not anticipated to be completed in the planning period, the City shall

complete rezoning within 18 months to maintain adequate RHNA capacity at all income levels. The City will track each site in its inventory and report annually to the City Council on the adequacy of available sites compared to the progress made towards meeting the RHNA.

Facts in Support: The Project Site is listed as a pipeline housing project in the City's 6th Cycle Housing Element. Approval of the Project will further the City's housing goals and provide housing at the very low-income and low-income levels of affordability. Therefore, the Project is consistent with Housing Element Program 1.E.

Policy 4.1. Variety of Housing Types. Provide housing opportunities in residential, mixed-use and infill areas, especially near high frequency transit and other services, for households with special needs such as studio and one-bedroom apartments for the elderly and single-person households, SROs, three-bedroom apartments for large households, specially designed units for persons with disabilities, and units affordable to extremely low-, very low-, and low-income households with single-parent heads of households or those with disabilities (including developmental disabilities).

Facts in Support: The Project includes 55 assisted senior living units and 31 memory care beds. The Project will include four (4) units that are affordable to very low-income individuals and one (1) unit affordable to low-income individuals. Therefore, the Project is consistent with Housing Element Program 4.1.

ENVIRONMENT

ES 1 Ecology of Creeks and Streams. Preserve and enhance the ecology of creeks and streams, including riparian vegetation. Prohibit further degradation and require restoration of previously-degraded riparian areas as a condition of development approval when restoration is feasible, taking into account the project's size and cumulative impacts.

ES 1a Waterway and Riparian Protection. Ensure that new development complies with the requirements of the Waterway and Riparian Protection ordinance in the Zoning Code for watercourses shown on Figure ES-1.

Facts in Support: The Applicant submitted a Biological Resources Analysis (BRA) that analyzed whether the Project would have any site specific biological resource impacts. The BRA found that implementation of feasible mitigation measures, which are included as conditions of approval, will ensure that biological resources are protected.

Based on the facts above and the Record as a whole, the Project is consistent with Policy ES 1 and 1a.

ES 23 Trees in New Development. Require that the site planning, construction and maintenance of development preserve existing healthy trees and native vegetation

on site to the maximum extent feasible. Replace trees and vegetation not able to be saved.

Facts in Support: The Project Site includes riparian vegetation and trees along Novato Creek, and other trees distributed throughout the Project Site. The Project proposes to remove eight trees, including three cedar trees near the Grant Avenue frontage, four oak trees along the easterly property line, and one Douglas fir tree towards the south side of the Site to accommodate the required emergency access drive aisle serving the RCFE. Eleven trees will be preserved/planted in the parking lot areas and 18 trees will be preserved/proposed in other areas of the site. No trees in the riparian area near Novato Creek are proposed for removal.

Based on the facts above and the Record as a whole, the Project is consistent with Policy ES 23.

LIVING WELL

NS 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 1b Indoor Noise Standard. The maximum acceptable interior noise level for all new residential development, including hotels and motels, is 45 dBA Ldn.

Facts in Support: The Project Site is in an area of residential uses to the north and east sides and is bordered by Novato Creek on the west and south sides. There are no excessive noise generators proximal to the Project Site. Additionally, the California Building Code requires buildings to be designed to maintain interior noise levels at or below 45 decibels.

Based on the facts above and the Record as a whole, the Project is consistent with NS policies 1 and 1b.

A CITY THAT WORKS

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 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: The Project Site is not known to have any geologic hazards. As part of the building permit submittal process, a soils report will be required to ensure that proposed construction methods will be consistent with the requirements of the California Building Code.

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

SH 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 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.

Facts in Support: The Novato Fire Protection District has reviewed the Project and recommended conditions of approval to ensure compliance with local and state standards regarding fire hazards and risks. Conditions of approval are included to ensure compliance with the requirements of the Novato Fire Protection District.

Based on the facts above and the Record as a whole, the Project is consistent with policies SH 3 and SH 3a.

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

Facts in Support: The North Marin Water District has reviewed the Project and determined it has adequate facilities and infrastructure to serve the RCFE. Based on this fact and the Record as a whole, the Project is consistent with Policy PF 3.

EXHIBIT B

THE LODGE ON NOVATO CREEK 1787 GRANT AVENUE (APNS 141-201-12 AND 141-201-48)

CONDITIONS OF APPROVAL

The following conditions of approval shall be met to the satisfaction of the Novato Community Development Department – Planning Division:

1. The Project shall be constructed in accordance with the approved plans and entitlements as depicted on the architectural, landscape, and electrical plan set drawn by Lenity Architecture, Inc., revised October 15, 2024, and the civil engineering plan set drawn by Phillippi Engineering, dated January 25, 2024 (totaling 32 plan sheets).
2. The entitlements shall expire two (2) years from the date of approval pursuant to Novato Municipal Code Division 19.44 unless an extension is granted pursuant to the provisions of Division 19.44.
3. 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 permits, certificate of occupancy, and recordation of final maps or other entitlements.
4. The Applicant, property owner, or any successor in interest to the Project, shall be subject to paying all applicable development impact fees as specified in City Council Resolutions No. 67-02 and 69-02, as subsequently amended from time to time.
5. The Project shall comply with Novato Municipal Code Division 19.21 (Art Program) regarding the installation of art or payment of an in-lieu fee. Division 19.21 is not applicable to residential units that are deed restricted for lower-income households.
6. The Project shall meet the affordable housing requirements of NMC Section 19.34.160.F. Pursuant to NMC Section 19.34.160. The Project is required to provide a minimum of four (4) assisted living units as affordable to very low-income households and a minimum of one (1) assisted living unit as affordable to the low-income households consistent with the density bonus granted to the Project pursuant to Government Code Section 65915. The Project ownership shall be required to enter into a housing agreement for the affordable units as prescribed in NMC Section 19.34.160 F.3. which shall be recorded prior to issuance of a building permit.
7. For compliance with NMC Section 19.28.040.C.2.b, building permit plans and/or improvement plans shall include tree root barriers for any proposed trees that are in landscape

planters that are less than 10 feet in width or length or for any proposed tree that is closer than five feet from a permanent structure.

8. For compliance with NMC Section 19.28.040.A.3, building permit plans and/or improvement plans shall include 6-inch-high concrete curbs around all proposed landscape areas.
9. Mitigation Measure CM-1
 - a) All improvement and construction plans shall have a notification that there is a potential for exposing buried cultural resources, including those of prehistoric Native American burials and/or other resources.
 - b) The Applicant, property owner, or any successor in interest to the Project shall develop and implement a program to install a culturally sterile engineered fill cap to cover the known archaeological deposit within and adjacent to the revised site boundary for CA-MRN-352 to preserve the resource in place. In addition, the Applicant shall not undertake tree planning within the archaeological site adjacent to the southern perimeter of the building footprint.
 - c) Prior to the start of ground disturbing construction or grading activities, a Professional Archaeologist shall conduct a Worker Awareness Training (WAT) for cultural resources. Training shall be required for all construction personnel participating in ground disturbing construction to alert them to the archaeological sensitivity of the project area and provide protocols to follow in the event of a discovery of archaeological materials. The Project Archaeologist shall develop and distribute for job site posting an "ALERT SHEET" summarizing potential finds that could be exposed and the protocols to be followed as well as points of contact to alert in the event of a discovery. Training shall be scheduled at the discretion of the Applicant in consultation with the City of Novato. A Tribal Monitor from the Federated Indians of Graton Rancheria (FIGR) shall be invited to attend the WAT at the discretion of the City of Novato.
 - d) The Applicant, property owner, or any successor in interest to the Project shall retain a Professional Archaeologist to develop a short form *Archaeological Monitoring Plan* (AMP) with the objective of guiding archaeological monitoring during fill placement, ground disturbing construction adjacent to the site boundary and spot-check monitoring during other ground disturbing construction outside of the archaeological resource. The AMP shall provide protocols and procedures to guide the monitoring as well as a treatment option(s) in the event of an unexpected discovery of significant cultural materials.
 - e) A Professional Archaeologist shall be retained by the Applicant, property owner, or any successor in interest to the Project to observe all project-related ground disturbing activities in native soil within and immediately adjacent to the southern boundary of the building footprint. Ground disturbing activities include, but are not limited to, asphalt and building foundation removal, hand excavation, clearing, grubbing, and removing and/or

recompacting unconsolidated soils near the ground surface that will disturb native soil. A Tribal Monitor from FIGR shall be invited to observe with the Professional Archaeologist. In the event of a significant unexpected discovery, the protocols presented in the AMP shall be implemented.

- f) The Applicant, property owner, or any successor in interest to the Project shall retain a Professional Archaeologist on an “on-call” basis after the completion of any archaeological and tribal monitoring to review, identify and evaluate cultural resources that may be inadvertently exposed during construction in the absence of an Archaeological and Tribal Monitor. The Professional Archaeologist will review and evaluate any discoveries to determine if they are historic resources and/or unique cultural resources under CEQA.
- g) If the Professional Archaeologist determines that any cultural resources exposed during construction constitute a historic resource and/or unique archaeological resources, he/she shall notify the Applicant and other appropriate parties of the evaluation and recommend treatment to mitigate to a less than significant impact. Treatment shall be in accordance with the AMP.
- h) A *Monitoring Closure Report* shall be filed with the City of Novato at the conclusion of ground disturbing construction if archaeological and Native American monitoring of ground disturbing construction was undertaken.

10. Mitigation Measure CM-2

- a) The treatment of human remains and of associated or unassociated funerary objects discovered during any soil-disturbing activity within the Project Site shall comply with applicable State laws. This shall include immediate notification of the Marin County Medical Examiner and the City of Novato.

In the event of the coroner’s determination that the human remains are Native American, notification of the Native American Heritage Commission is required who shall appoint a Most Likely Descendant (MLD) (Public Resources Code Section 5097.98).

The Applicant, property owner, or any successor in interest to the Project, Professional Archaeological consultant, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5(d)). This agreement should take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects. The CA Public Resources Code allows 48 hours to reach agreement on these matters. If the MLD and other parties do not agree on the reburial method, the project will follow CA Public Resources Code Section 5097.98(b) which states “...the landowner or his or her authorized representative shall reinter the human

remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.”

11. Mitigation Measure BIO-1

Prior to the removal or pruning of any tree(s) within the riparian corridor, or the placement of any fill or land disturbances within the riparian canopy, the Applicant shall obtain a CDFW Streambed Alteration Agreement pursuant to CA Fish and Game Code Section 1602.

The Biological Resources Assessment (BRA) for the Project, completed by LSA (dated 09/20/2024) is on file with the Novato Community Development Department. The BRA includes map exhibits that depict the boundary of the Novato Creek ordinary high-water mark, boundary of the riparian woodland (canopy) and boundary of the project development area.

12. Initiation of construction activities during the avian nesting season (February 1 through August 31) 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 can be used to detect the nests of special-status, as well as non-special-status birds. Surveys will occur throughout the limits of grade portion of the project site and the surrounding 500 feet. If any active avian nests are found, an exclusion zone where no construction would be allowed will be established around any active nests until a qualified biologist has determined that all young have fledged and are independent of the nest. Suggested exclusion zone distances differ depending on species, location, and placement of nest, and will be at the discretion of the biologist. These surveys will remain valid as long as construction activity is consistently occurring in a given area and will be completed again if there is a lapse in construction activities of more than 14 consecutive days during the breeding bird season.

13. The following Air Quality and Dust Control Measures shall be implemented for the duration of land disturbances and construction:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered or maintain at least two feet of freeboard.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. Enclose, cover, water daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.

- f. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- g. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- h. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- i. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- j. Post a publicly visible sign with the telephone number and contact information of the Contractor's Site Superintendent and the City of Novato regarding dust complaints. The Contractor shall respond and take corrective action within 48 hours. The air district's phone number shall also be included and visible to ensure compliance with applicable regulations.

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

- 14. The Applicant, property owner, or any successor in interest to the Project shall submit for and obtain a building permit consistent with the requirements of adopted codes in place at the time of submittal.
- 15. The Applicant, property owner, or any successor in interest to the Project shall submit an updated geotechnical report including foundation, grading, paving, and parking lot design recommendations.
- 16. The Applicant, property owner, or any successor in interest to the Project shall obtain a Construction General Permit from the Regional Water Quality Control Board. The Applicant shall submit a Stormwater Pollution Prevention Permit to the Stated and provide an NOI number to the City prior to the issuance of a building permit.
- 17. Prior to the issuance of a demolition permit for the existing structure, the Applicant, property owner, or any successor in interest to the Project shall obtain all necessary permits from the Bay Area Air Quality Control Board and submit proof of the permit to the Building Division.
- 18. The project shall be designed to include compliant path of travel from the main entry to the public way (Grant Avenue). If any public funding or concessions are to be involved, residential accessibility design shall be consistent with CBC Chapter 11A and 11B. If no public funding is involved, then residential design shall be consistent with CDC 11A.

19. Commercial accessibility design shall be consistent with CBC 11B.

The following conditions of approval shall be met to the satisfaction of the Novato Fire Protection District (NFPD), as detailed in the NFPD Inspection Report dated February 2, 2024, which is on file with the Community Development Department:

20. An automatic fire sprinkler system is required to be installed conforming to NFPA Std. 13. Plans and hydraulic calculations shall be submitted to the Fire Marshal for review prior to installation. Contact the North Marin Water District to apply for fire service connection. Additional sizing may be required due to available pressures and fire flow.
21. All automatic fire sprinkler and fire alarm systems, flow switches, and control valves shall be monitored by an approved UL Central Station company, zoned and enunciated as required by the Novato Fire District and Fire Protection Standard #400.
22. Fire hydrants capable of supplying the minimum require flow will be required to be installed so that spacing between hydrants does not exceed 300 feet. The fire hydrant(s) shall be spotted by the Fire Marshal and contain at least one 4 ½-inch and one 2 ½-inch outlets. Installation shall conform to the specifications of the North Marin Water District.
23. The existing fire hydrant nearest the structure and located by the Fire Marshal shall have the body upgraded to have at least one 4 ½-inch and one 2 ½-inch outlet. Installation shall conform to the specifications of the North Marin Water District. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 150 feet (45.179 m) from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided where required by the fire code official. Refer to NFD Standard for Private Underground Fire Protection for more information.
24. Fire hydrants shall be installed in accordance with the applicable standard, tested and operational prior to framing.
25. Fire Hydrants shall be painted Rustoleum high gloss yellow or equal. Hydrants shall have a blue reflective roadway marker installed per NFD Standards.
26. Roadways and parking aisle driveways shall have a minimum clearance of not less than 20 feet horizontal by 14 feet vertical clearance. No object shall encroach into this horizontal and vertical plane.
27. Access for fire apparatus shall comply with Sections 503.1.5, 503.1.5.1, 503.1.5.2, 503.1.5.3, and 503.4 of the CA Fire Code.
28. Roadways shall be not less than 20 feet wide capable of accommodating a 60,000 GVW and driveways and parking aisles not less than 16 feet wide capable of accommodating a 40,000

GVW, all weather surface (AC Paving or concrete), unobstructed, and shall be installed prior to lumber delivery or framing.

29. All driveways and parking areas shall accommodate Novato Fire District apparatus turning radius per NFD standards, and turnouts may be required.
30. 'No parking fire lane' curbs and signs shall be installed in accordance with NFD Standard #204, as required by the Fire Marshal.
31. 'Knox' key access shall be installed at the premises conforming to Novato Fire Protection Standard #202.
32. A business shall create and maintain a pre-plan per Fire Protection District ordinance.
33. Fire Department access is required for all new structures. The City of Novato Public Works is also responsible for enforcing the road-driveway requirements. Gates, bridges and Fire Lanes shall be in compliance with the California Fire Code and the Novato Fire District Local Amendments located in the 2022 NFD Ordinance – 1. Refer to NFD Standards for Fire Department Access, Fire Lanes, and Addressing for more information. Projects having more than 50 dwelling units shall be provided with two separate and approved fire apparatus access roads. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 m²) shall be provided with two separate and approved fire apparatus access roads. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have at least two means of fire apparatus access for each structure. Ladder pads for Fire Department rescue operations and access to windows may be required for multi-story buildings. An approved fire safety evacuation plan in accordance with CFC, Section 404 shall be prepared and maintained. Compliance with CFC Sections 403.7.1 through 403.7.3.6 shall be required.
34. Stairway markings and identification shall be installed and maintained on the interior stairwell landing doors conforming to Novato Fire District Standard #116.
35. The address shall be posted clearly visible from the street with numerals illuminated and contrasting color to their background conforming to Novato Fire Protection Standard #205.
36. A building and 'Floor Plan Directory' shall be installed in all locations required by the Fire Marshal, and conforming to Novato Fire Protection standard #205A.
37. The facility and improvements shall comply with California Building Code and State Fire Marshal building standards and regulations.
38. Maximum Occupant Capacity signs shall be installed as required by the Fire Marshal conforming to Fire District Standard #115.
39. Portable fire extinguishers shall be installed and maintained in accordance with California Fire Code Chapter 9.

40. All hood and duct extinguishing systems (i.e. commercial cooking, etc.) shall be interconnected to the fire alarm control panel as required, or dedicated function fire alarm shall be installed.

The following conditions of approval shall be met to the satisfaction of the North Marin Water District (NMWD), as detailed in the NMWD letter dated April 2, 2024, which is on file with the Novato Community Development Department:

41. Construction of new water distribution facilities is required for the Project. The Applicant, property owner, or any successor in interest must apply to the District, enter into an agreement with the District, and complete financial arrangements for the new facilities as a condition of permit approval. Occupancy approval shall not be granted until water service installation and sign-off is complete.
42. The Project shall conform to District Regulation 15 – Mandatory Water Conservation Measures. Occupancy approval shall not be granted until compliance with water conservation measures, as applicable, can be verified.
43. Installation of an above-ground, reduced pressure principle (RPP) backflow prevention device at the meter is required in accordance with the District’s Regulation 6 and CA Department of Health Regulations Title 17. Upon installation, an inspection report (device testing) must be completed.

The following conditions of approval shall be met to the satisfaction of the Novato Sanitary District, as detailed in a letter dated November 16, 2023, which is on file with the Novato Community Development Department:

44. All construction of new sewer structures and abandonment of existing sewer structures shall be performed in complete compliance with NSD standards and specification.
45. The Applicant, property owner, or any successor in interest shall apply for a permit with NSD and pay all applicable fees including but not limited to permit, inspection, and connection fees.

The following conditions of approval shall be met to the satisfaction of the Novato Public Works, Engineering Division, as detailed in a memo dated November 07, 2024, which is on file with the Novato Community Development Department:

General Conditions of Approval:

46. 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.

47. 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.
48. 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.
49. 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. 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.
50. 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.
51. 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.

52. 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.
53. 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.
54. 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.
55. The Applicant shall obtain 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.
56. 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.

57. 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.
58. 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.
59. Stenciling shall be provided on curb inlets to prohibit dumping of pollutants. The stencil detail shall be included in the improvement plans.
60. Landscape plans shall be submitted with the Improvement Plans and shall meet the requirements of sight distance to the satisfaction of the City Engineer.
61. 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 NPDES General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ).

Special Conditions of Approval:

62. 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 (6 sheets) prepared by Phillippi Engineering, Inc., dated January 25, 2024, referred to herein as "Preliminary Plans".
63. All on-site streets, parking lots, sidewalks, streetlights, storm drain facilities, stormwater quality facilities, landscaping and other amenities shall be privately owned and maintained.
64. Applicant shall construct all of the Public Improvements generally as shown on the Preliminary Plans, except for the curb, gutter and sidewalk along the Grant Avenue frontage of the property which are anticipated to be constructed by the City as part of its Grant Avenue Bridge Rehabilitation Project. In the event that any of the curb, gutter and sidewalk along the Grant Avenue frontage of the property are not completed by the City, then those improvements shall be completed by the Applicant.
65. 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 private post-construction stormwater treatment facilities in accordance with the approved final Stormwater Control Plan.
66. 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.

Construction Conditions of Approval:

67. 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.
68. 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. The Applicant shall be responsible for the City's additional cost to provide inspection during times not established as regular City inspection hours.
69. 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.
70. 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.
71. 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.

72. 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.
73. 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."
74. 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.
75. 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.
76. 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.
77. 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.
78. 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.

Occupancy Conditions of Approval:

79. Prior to occupancy of any building, the Applicant shall submit a certification by the Geotechnical Engineer of Record confirming that all the work has been completed in substantial conformance with the recommendations in Soils Investigation/Geotechnical Report.
80. Prior to occupancy of any building, the Applicant shall provide a letter from the Civil Engineer of Record certifying that all the site improvements have been constructed and inspected in substantial conformance with the approved plans and City Standards.
81. Prior to occupancy of any last building, the Applicant shall provide a mylar and digital copy of the Improvement Plans that includes all as-built or field changes.