STAFF REPORT

MEETING
DATE: January 9, 2018

TO: City Council

FROM: Terrie Gillen, City Clerk

SUBJECT: ADOPT AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO ADOPTING AMENDMENTS TO THE ATHERTON RANCH MASTER PLAN, ADOPTED BY THE CITY OF NOVATO ORDINANCE NO. 1435, TO RESCIND AND REPLACE ALL TEXT AND GRAPHICS ADDRESSING COMMERCIAL DEVELOPMENT ON PARCELS C AND D WITH ATHERTON PLACE (10702M), A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNS 125-600-51 AND -52

REQUEST

Adopt the ordinance.

BACKGROUND

This ordinance was introduced by Planning Manager Steve Marshall at the public hearing, which was held at the City Council meeting of December 5, 2017. Once the ordinance is adopted, it will go into effect thirty days after the date of its passage and adoption.

RECOMMENDATION

Adopt the ordinance.

ATTACHMENT

1. Draft Ordinance approving the Master Plan Amendments
CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1632

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO ADOPTING AMENDMENTS TO THE ATHERTON RANCH MASTER PLAN, ADOPTED BY CITY OF NOVATO ORDINANCE NO. 1435, TO RESCIND AND REPLACE ALL TEXT AND GRAPHICS ADDRESSING COMMERCIAL DEVELOPMENT ON PARCELS C AND D WITH ATHERTON PLACE (10702M), A MIXED-USE DEVELOPMENT PROJECT PROPOSED AT 7533 AND 7537 REDWOOD BOULEVARD, APNs 125-600-51 AND -52

WHEREAS, the City Council of the City of Novato (“City”) adopted Ordinance No. 1435 on October 24, 2000, approving the Atherton Ranch Master Plan (hereafter “Master Plan”); and

WHEREAS, the approved Master Plan text and exhibits describe the development of a retail/office component, referenced as “Commercial Area,” on parcels C and D of the Master Plan area; and

WHEREAS, the City received an application (10702M) proposing to develop Atherton Place (“Project”), a mixed use development featuring 50 townhome-style residential condominium units and a 1,340 square-foot commercial condominium space on parcels C and D of the Master Plan area (“Project Site”); and

WHEREAS, the Master Plan is proposed to be amended to rescind and replace all text and graphics referencing the “Commercial Area” with text and graphics describing the Project (“Master Plan Amendments”); and

WHEREAS, an Initial Study/Mitigated Negative Declaration ("IS/MND"), prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the City of Novato Environmental Review Guidelines, analyzed construction and operation of the Project to determine if these activities would result in significant physical impacts to the environment; and

WHEREAS, the IS/MND did not identify any significant environmental impacts arising from the operation and construction of the Project that could not be mitigated to a less than significant level; and

WHEREAS, by separate resolution adopted prior hereto, the City Council did adopt a Mitigated Negative Declaration for the Project, and did consider the IS/MND prior to taking action on the Project; and

WHEREAS, on March 30, 2015, the applicant, Prado Group, conducted a neighborhood meeting to present the Project to nearby residents and answer questions regarding the proposal; and
WHEREAS, on July 8, 2015, the Novato Design Review Commission conducted a publicly noticed workshop to review the site design, building height/massing, and conceptual architecture and landscaping proposed for the Project; and

WHEREAS, on August 3, 2016, the Novato Design Review Commission conducted a publicly noticed hearing to consider providing a recommendation to the Planning Commission and City Council regarding the Project's site design, building height/massing, and conceptual architecture and landscaping to assist the Planning Commission and City Council in considering whether the Project is compatible with the Project Site and its surroundings; and

WHEREAS, on August 3, 2016, the Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the Project's site design, building height/massing, and conceptual architecture and landscaping recognizing the Project's well resolved site plan, appropriate height/mass, and acceptable architecture and landscape concepts. This recommendation was based on the findings required to approve design review applications, including observations that the Project would be compatible with the characteristics of the Project Site and surrounding area and maintains consistency with the design related policies of the Novato General Plan; and

WHEREAS, the Planning Commission held a public hearing on November 6, 2017, and considered all oral and written comments on the Project, including the Master Plan Amendments at issue herein; and

WHEREAS, public notices describing the Planning Commission’s public hearing regarding the Project, including the Master Plan Amendments at issue herein, were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the Marin County Clerk, and all persons requesting 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 October 17, 2017; and

WHEREAS, at its public hearing on November 6, 2017, the Planning Commission adopted a resolution recommending the City Council adopt the Master Plan Amendments for the Project; and

WHEREAS, public notices announcing the time, date, and location of the City Council’s hearing regarding the proposed the Project, including the proposed Master Plan Amendments and the other associated development entitlements were sent to all affected property owners within 1,000-feet of the boundaries of the Project Site, all property owners within Atherton Ranch and San Marin Valley neighborhoods, all public agencies potentially serving the Project or having some oversight of the Project's construction, all responsible and trustee agencies, the Marin County Clerk, and all persons requesting 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 November 20, 2017; and

WHEREAS, the City Council held a public hearing on December 5, 2017, to consider and receive public testimony prior to taking action on the Master Plan Amendments for the Project and its other associated development entitlements.
NOW THEREFORE THE CITY COUNCIL OF THE CITY OF NOVATO DOES FIND AND ORDAIN AS FOLLOWS:

SECTION 1: The Record of Proceedings ("Record") upon which the City Council bases its decision on the Master Plan Amendments includes, but is not limited to: (1) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the IS/MND, (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the City relating to the IS/MND, the Project, and the Project's associated development entitlement requests (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (5) the 1999 Atherton Ranch EIR and Final EIR, (6) all designs, plans, studies, data and correspondence submitted by the City in connection with the IS/MND, the Project, and the Project's associated development entitlement requests (7) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the IS/MND, the Project, and the Project's associated development entitlement requests (8) all other matters of common knowledge to the City Council 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 2: The City Council hereby makes the following findings as required by Section 19.42.060.E.3 of the Novato Municipal Code with the respect to the proposed Master Plan Amendments as described in Exhibit A attached hereto:

a. The proposed Master Plan development is in conformance with the applicable goals and policies of the General Plan and any applicable specific plan;

Exhibit B, attached hereto and incorporated herein by reference, cites policies of the Novato General Plan that are applicable to the Project and provides supporting facts regarding the Project’s consistency therewith. Based on the facts described in Exhibit B, the Master Plan Amendments proposed for the Project are hereby found to be consistent with the 1996 Novato General Plan. The Project Site is not subject to a specific plan.

b. The proposed Master Plan development can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.

The IS/MND prepared for the Project, including the proposed Master Plan Amendments, analyzed the ability of local government services and public utilities to serve future development at the Project Site based on the proposed land uses, development intensity, and design of the Project. This review included considering comments from the Novato Fire Protection District, Novato Sanitary District, and North Marin Water District regarding their service capabilities and infrastructure. The IS/MND also analyzed the demand for public parks and other government service facilities. The IS/MND confirmed the noted service providers have sufficient capacity, facilities, infrastructure, equipment, and staff to serve the Project.

The noted agencies submitted recommended conditions of approval to ensure the Project’s infrastructure improvements meet each agency’s respective standards. The conditions of approval are applied through the Precise Development Plan and Vesting Tentative Subdivision Map
entitlements for the Project, both of which are adopted by separate resolution. Each agency will review the Project's construction detail drawings submitted through the local building permit process to confirm all utility connections and infrastructure upgrades required for the Project are designed and installed appropriately. All other utilities, including electricity, gas, cable, internet, and telephone service are located in the Redwood Boulevard right-of-way and are available to the Project.

The IS/MND confirmed the City's existing park and recreation facilities and local government facilities have sufficient capacity to serve the Project.

Based on the observations above and the supporting facts presented in Exhibit B, attached hereto and incorporated herein by reference, the Project, as regulated by the Master Plan Amendments, can be adequately, conveniently, and reasonably served by public conveniences, facilities, services, and utilities.

c. The proposed Master Plan development concepts are reasonably suited to the specific characteristics of the site and the surrounding neighborhood; and

d. The location, access, density/building intensity, size and type of uses proposed in the Master Plan are compatible with the existing and future land uses in the surrounding neighborhood.

Site Compatibility

The Project Site does not have any remarkable characteristics or physical constraints with exception of a stand of heritage size oak trees along the Site’s frontage at Pinheiro Circle. The Project’s primary and alternative site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of the oak trees. The IS/MND prepared for the Project considered these improvements and recommends implementation of Mitigation Measure BIOLOGY-2. Mitigation Measure BIOLOGY-2, among many provisions, requires a professional arborist to monitor work conducted within the dripline of the oaks to minimize the potential for root damage. The Project, although having improvements encroaching into the dripline of the noted oak trees, is hereby found to be well suited to the specific characteristics of the Project Site.

The Project’s primary and alternate site designs efficiently and logically arrange the proposed 50 residential condominium units and 1,340 square-foot retail condominium, on-site parking, outdoor use areas, landscape spaces, and pedestrian amenities over the Project Site. As designed, the Project is considered to be of a development intensity that is reasonable for the size and configuration of the Project Site as supported by the provision of on-site parking consistent with the parking ratios of the Atherton Ranch Precise Development Plan, outdoor use areas of a cumulative size exceeding that otherwise required of multi-family development projects by the Novato Municipal Code, pedestrian amenities providing connectivity to each condominium unit and the surrounding street system, and attractive landscaping.

Neighborhood Compatibility

The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former...
Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project’s primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project’s primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.

A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project’s site design, height/massing, and architectural and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architectural and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission’s recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.

Future Land Use Compatibility

Construction of the Project, pursuant to the Master Plan Amendments, would complete development of the Atherton Ranch Master Plan area. Accordingly, no future development or changes in land use are expected to occur in the Master Plan area.
Future development in the project vicinity is most likely to occur on the commercially designated lands along the east side of Redwood Boulevard. This particular area is known as the North Redwood Corridor and is the subject of a focus area being considered in the draft General Plan 2035. The North Redwood Corridor focus area expects a variety of retail and service commercial land uses being developed on vacant properties and lands currently being used for commercial industrial activities. Future uses may include retail outlets, restaurants, hotels, service commercial (e.g., dry cleaner) and similar uses. In addition, the North Redwood focus area anticipates development of the Project Site with multi-family housing.

The Project’s development concept is considered to result in a project that is compatible with the expected commercial uses in the North Redwood Corridor focus area. In particular, the physical improvements described for the Project are limited to the Project Site and immediately adjacent portions of the public right-of-way and would not affect the ability to redevelop any of the other properties in the North Redwood Corridor focus area.

Based on the observations above, the Project’s development concept, as related to the Master Plan Amendments at issue herein, is hereby found to be reasonably suited to the specific characteristics of the Project Site and the surrounding neighborhood in the Master Plan area and would be compatible with future land uses that may locate in the project vicinity.

SECTION 3: The City Council hereby approves the proposed Master Plan Amendments amending the Atherton Ranch Master Plan to extinguish all references to the text and graphics describing commercial development on Parcels C and D of the Master Plan area, referenced therein as “Commercial Area,” and replacing such graphics and text with the language specified in Exhibit A and the Project’s design plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017, based on the findings set forth herein and subject to the conditions of approval set forth below:

1. Mitigation Measure VISUAL-1: The applicant shall incorporate the following specifications into the proposed project:
   a. All lighting shall be shielded so that lighting is cast downward and “spillover” is minimized.
   b. Lighting for exterior locations shall be designed primarily for public safety and shall not result in unnecessary glare for nearby residences.
   c. Whenever possible, lighting for pathways shall be low path lighting.
   d. All garage lighting shall be shielded to minimize spillover to adjacent areas and roadways.
   e. Over-lighting shall be prevented and full-cut off fixtures shall be used to minimize light pollution and spillover.

2. Mitigation Measure AIR-1: During any construction-period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by the Bay Area Air Quality Management District (BAAQMD) and listed below would reduce the air quality impacts.
associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:

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.

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 miles per hour (mph).

e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

f. 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 [CCR]). Clear signage advising of this requirement shall be provided for construction workers at all access points.

g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

h. A publicly visible sign shall be posted listing the telephone number and person to contact with the developer or contractor responsible for the project regarding dust complaints. This person shall respond and take or direct corrective action within 2 hours of receiving a complaint. The BAAQMD and City of Novato phone numbers shall also be visible to ensure compliance with applicable regulations.

3. Mitigation Measure AIR-2: The applicant shall implement Mitigation Measure AIR-1 and shall also ensure that construction equipment is selected to minimize emissions. Such equipment selection shall include the following:

All diesel-powered off-road equipment operating on the site for more than 2 days continuously shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Note that the construction contractor could use other measures to minimize construction-period diesel particulate matter (DPM) emission to reduce the predicted cancer risk below the thresholds. The use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel) would meet this requirement.

4. Mitigation Measure BIOLOGY-1: Any active bird nests in the vicinity of proposed vegetation removal and grading shall be avoided until young birds are able to leave the nest
(i.e., fledged) and forage on their own. Avoidance may be accomplished either by scheduling grading and vegetation removal during the non-nesting period (September through February), or if this is not feasible, by conducting a pre-construction survey for active nests. A pre-construction survey report verifying that no active nests are present, or that nesting has been completed as detailed below, shall be submitted to the City of Novato for review and approval prior to initiation of grading or vegetation removal during the nesting season. Provisions of the pre-construction survey and nest avoidance measures, if necessary, shall include the following:

a. If initial grubbing and grading is scheduled during the active nesting period (March through August), a qualified wildlife biologist shall be retained by the applicant to conduct a pre-construction nesting survey no more than 7 days prior to initiation of grading or vegetation removal to provide confirmation on presence or absence of active nests in the vicinity.

b. If active nests are encountered, species-specific measures shall be prepared by a qualified biologist through informal consultation with the California Department of Fish and Wildlife (CDFW) and implemented to prevent nest abandonment. At a minimum, vegetation removal and grading in the vicinity of the nest shall be deferred until the young birds have fledged. A nest setback zone of at least 100 feet for raptors and 50 feet for loggerhead shrike and passerine birds shall be established, and all construction-related disturbances shall be prohibited within the nest setback zone. The perimeter of the nest setback zone shall be fenced or adequately demarcated and construction personnel restricted from the area.

c. If permanent avoidance of the nest is not feasible, impacts shall be minimized by prohibiting disturbance within the nest setback zone until a qualified biologist verifies either that a) the birds have not begun egg-laying and incubation, or b) the juveniles from the nest are foraging independently and capable of independent survival at an earlier date.

d. A survey report of findings verifying that any young have fledged shall be submitted for review and approval by the City of Novato prior to initiation of grading or vegetation removal in the nest setback zone. Following approval by the City of Novato, grading, vegetation removal, and construction in the nest setback zone may proceed as proposed.

5. Mitigation Measure BIOLOGY-2: The project shall comply with Chapter XVII of the Novato Municipal Code. Compliance with the Municipal Code shall be achieved through adherence with the following provisions:

a. Tree Preservation Guidelines contained in the Arborist Report (HortScience, 2016) shall be implemented to ensure adequate protection of trees to be preserved. This shall include adherence to specified design recommendations, pre-construction treatments and recommendations, and recommendations for tree protection during construction, and the project site plan and other improvement plans shall be revised to reflect minimum design recommendations. Design recommendations include relocating driveways, walking paths, landscape features, and careful controls on any facilities that would require excavation at least 20 feet from the trunk of Trees #168 to #178 and 18 feet from the trunk of Tree #167.
b. A Tree Protection Zone (TPZ), defining the limits of construction activity required for successful tree preservation, shall be established around all trees to be retained. Specific features shall include the following:

- For Trees #168 to #178, the TPZ shall be 20 feet in all directions.
- For Tree #167, the TPZ shall be 18 feet in the area of the west vehicle access and 20 feet in other areas surrounding the tree.
- For Trees #155 to #166 and #187, the TPZ shall be established in two phases:
  - During demolition, grading, and building construction, the TPZ shall be 10 feet in all directions. A continuous fence 10 feet from the tree trunks may also be used to separate construction on the site from these trees.
  - During installation of the sidewalk, tree protection fencing shall be placed no closer than 2 feet from the trunk.

c. Temporary construction fencing shall remain in place around the TPZ for the duration of construction. Fencing shall not be moved unless under supervision of the consulting arborist, and no grading, excavation, construction, or storage of materials shall occur within that zone.

d. Irrigation systems shall be designed so that no trenching severs roots larger than 1 inch in diameter within the TPZ.

e. Landscape treatment within the TPZ for Trees #167 to #178 shall be compatible with the requirements of native oak. No irrigation system shall be installed within the tree driplines.

f. The two parking stalls and pedestrian path proposed within the TPZ for Trees #176 and #177 shall be designed and installed to minimize any damage to the tree root zone of these trees. The parking stalls and path shall preferably be designed using decomposed granite or some other permeable paving, and the design shall be reviewed and approved by the consulting arborist. Special construction techniques such as advanced hand digging to determine root locations, controlled root-cutting, and other methods to limit damage to the trees, and all work performed within the TPZ, shall be monitored by the consulting arborist.

g. Underground services including utilities, sub-drains, water, or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury, with all work supervised by the consulting arborist.

h. Any herbicides placed under paving materials shall be safe for use around trees and labeled for that use.

i. Lime shall not be used within 50 feet of any tree or subsurface treatment or other purposes. Lime is toxic to tree roots.
j. Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement. As trees withdraw water from the soil, expansive soils may shrink within the root area.

k. All grading, improvement plans, and construction plans prepared for building permits shall clearly indicate trees proposed to be removed and retained.

l. Where avoidance of a regulated tree, such as the two valley oaks growing in the central portion of the site (Trees #179 and #180), is not feasible, replacement tree plantings shall be provided at a minimum 3:1 ratio as part of the final landscape plan and in compliance with the City’s Municipal Code.

6. Mitigation Measure CULTURAL-1a (Construction Monitoring): Based on the reasonable potential that archaeological resources may be present within the project site, the project applicant shall retain the services of a qualified archeological consultant who shall, in consultation with the City of Novato, devise and carry out an archeological monitoring program. The goal of the monitoring program shall be to ensure that archaeological resources uncovered during site preparation and construction are identified and appropriately treated.

The project applicant shall inform its contractor(s) of the sensitivity of the project site for archaeological resources and shall include the following directive in appropriate construction documents:

If prehistoric or historical archaeological deposits are discovered during project activities, all work within 50 feet of the discovery shall be redirected. The project applicant shall notify the City of Novato Planning Division. A qualified archaeologist shall also be contacted to assess the situation and make recommendations regarding the treatment of the discovery. Project personnel shall not collect or move any archaeological materials or human remains and associated materials. Archaeological resources that may be encountered include flaked-stone tools (e.g., projectile points, knives, choppers) or obsidian or chert toolmaking debris; culturally darkened soil (i.e., midden soil often containing heat-affected rock, ash and charcoal, shellfish remains, faunal bones, and cultural materials); and stone-milling equipment (e.g., mortars, pestles, handstones). Prehistoric archaeological sites often contain human remains. Historical materials can include wood, stone, concrete, or adobe footings, walls, and other structural remains; artifact-filled wells or privies; and deposits of wood, glass, ceramics, metal, and other material.

7. Mitigation Measure CULTURAL-1b (Post-Review Discovery): If deposits of prehistoric or historical archaeological materials are discovered during project activities, all work within 50 feet of the discovery shall be redirected. Project personnel shall not collect or move any archaeological materials. A qualified archaeologist shall be contacted to assess the situation and consult with the City as appropriate. The archaeologist shall make recommendations to the City for the treatment of the discovery.

Adverse effects on archaeological deposits shall be avoided by project activities to the degree feasible. The City shall consult with the project archaeologist and the project applicant to determine if avoidance is feasible. If the City determines that avoidance is not feasible, the archaeological deposit shall be evaluated to determine if it constitutes a
historical resource (CEQA Guidelines Section 15064.5(c)(1)) or unique archaeological resource (Public Resources Code Section 21083.2) for the purposes of the California Environmental Quality Act (CEQA). Native American archaeological resources shall be evaluated in consultation with the Federated Indians of Graton Rancheria (FIGR), the federally recognized tribe whose area of traditional authority includes the project site.

If the deposit is found to be a historical resource or unique archaeological resource, adverse effects must be avoided if feasible or mitigated. Construction may be delayed while the archaeological investigations described herein are carried out if this is the only feasible means to reduce potential effects on an important archaeological resource to a less-than-significant level. Merely recovering artifacts and storing them does not mitigate impacts to a less-than-significant level. Mitigation may include, but is not necessarily limited to, scientific excavation of the deposit in accordance with a formally constituted data recovery plan (CEQA Guidelines Section 15126.4(b)(3)(C)) and standard archaeological field methods and procedures; laboratory and technical analyses of recovered archaeological materials; preparation of a report detailing the methods, findings, and significance of the archaeological site and associated materials; a DPR 523 form filed at the Northwest Information Center (NWIC); and, if appropriate, accessioning of the archaeological material and technical report to an archaeological repository. A public outreach product may also be appropriate, at the discretion of the City Planning Division. The archaeologist shall submit the report to the NWIC on completion of the evaluation and mitigation program.

8. Mitigation Measure CULTURAL-2: If paleontological resources (fossils) are encountered during pre-construction or construction activities, work shall be halted immediately within 50 feet of the discovery, which shall be protected in place. The City of Novato Planning Division shall be notified immediately and a qualified paleontologist shall be retained to determine the significance of the discovery. If the paleontologist determines that the discovery is an important resource, the paleontologist shall, in consultation with the City Planning Division, devise and carry out a treatment plan for the resources. Appropriate actions may include avoidance, preservation in place, and/or scientific excavation, and documentation. The plan shall include provision for a written report documenting the find and describing steps taken to evaluate it and treat its important values.

The project applicant shall inform its contractor of the sensitivity of the project site for paleontological resources. The following directive shall be included in appropriate construction documents:

This construction site may contain fossils—the petrified remains of ancient plants or animals. If fossils are encountered during construction, all ground-disturbing activities within 50 feet shall be redirected and the project applicant shall notify the City of Novato Planning Division. A qualified paleontologist shall also be contacted to assess the situation and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any fossils or their surrounding soil. Several types of fossils may be present including snails, clam and oyster shells, and sponges; as well as fish, reptile, and mammal bones.

9. Mitigation Measure CULTURAL-3: If human remains are discovered during project activities, the procedures outlined in Section 7050.5 of the California Health and Safety Code shall be implemented. Work within 50 feet of the discovery shall be redirected and
the Marin County Coroner notified immediately. At the same time, an archaeologist shall be contacted to assess the situation and offer recommendations. Project personnel shall not collect or move any human remains and associated materials.

If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) who has 48 hours to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. If the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American burials at a location not subject to further subsurface disturbance.

The project applicant shall inform its contractor(s) of the appropriate procedures if human remains are encountered on the project site. The following directive shall be included in the appropriate construction documents:

If human remains are encountered during project activities, work within 50 feet of the discovery shall be redirected and the Marin County Coroner notified immediately. At the same time, the project applicant shall notify the City of Novato Planning Division of the discovery, and a qualified archaeologist shall be contacted to assess the situation. Project personnel shall not collect or move any human remains and associated materials. If the human remains are of Native American origin, the Coroner must notify the Native American Heritage Commission within 24 hours of this identification. The Native American Heritage Commission will identify a Most Likely Descendant (MLD) to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods.

10. Mitigation Measure GEOLOGY-1: Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical report shall be prepared and submitted to the City of Novato for review and approval in accordance with adopted City standards. The structural designs shall adhere to the 2016 California Building Code (CBC), or more recent codes as applicable. Examples of the kinds of measures typical to meet these requirements include seismic performance standards; foundation design requirements; site preparation, fill, and compaction specifications; drainage requirements; and appropriate safety factors. The report shall also include a construction monitoring plan describing the timing and nature of inspections during construction to ensure that recommendations in the geotechnical report are implemented during project development. All design criteria and specifications set forth in the design-level geotechnical report, including construction inspection and monitoring requirements, shall be implemented as a condition of permit approval.

11. Mitigation Measure NOISE-1: The following measures shall be incorporated into the proposed project to reduce exterior noise levels to 65 dBA Ldn or below and interior noise levels to 45 dBA Ldn or below:

a. A solid 4-foot-high noise barrier enclosing the private ground-level courtyards at Buildings 4 and 9 along Redwood Boulevard, such as a solid 4-foot-high wood fence,
shall be provided to reduce exterior noise levels. The barrier shall not have cracks or
gaps in the face of the barrier or at its base and shall have a surface weight of at least 3
pounds per square foot. The gate in the fence shall be solid and have minimal cracks or
gaps at its base or jamb. This barrier would provide up to 3 dBA of noise reduction
from traffic noise levels along Redwood Boulevard, and would reduce future exterior
noise levels to 65 dBA Ldn and below the City of Novato’s threshold.

b. A qualified acoustical consultant shall review the final site plan, building elevations,
and floor plans prior to construction and recommend building treatments to reduce
interior noise levels to 45 dBA Ldn or lower. Treatments would include, but are not
limited to, sound-rated windows and doors, sound-rated wall and window
constructions, acoustical caulking, and protected ventilation openings. The specific
determination of what noise insulation treatments are necessary shall be conducted
during final design of the project. Results of the analysis, including the description of
the necessary noise control treatments, shall be submitted to the City of Novato, along
with the building plans and approved design, prior to issuance of a building permit.
Based on preliminary calculations, the units of Buildings 4 and 9 adjacent to Redwood
Boulevard, and the end units of Buildings 3 and 10 exposed to Redwood Boulevard
traffic noise, would require windows and doors with minimum Sound Transmission
Class (STC) ratings of 26 or 28.

c. A suitable form of forced-air mechanical ventilation shall be provided, as determined
by the local building official, for residential units proposed in Buildings 4 and 9
adjacent to Redwood Boulevard, and the end units of Buildings 3 and 10, so that
windows can be kept closed at the occupant’s discretion to control interior noise and
achieve the interior noise standards.

12. Mitigation Measure NOISE-2: Modification, placement, and operation of construction
equipment are possible means for minimizing the impact on the existing sensitive
receivers. Construction equipment shall be well-maintained and used judiciously to be as
quiet as possible. Additionally, construction activities for the proposed project shall include
the following best management practices to reduce noise from construction activities near
sensitive land uses:

a. Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on
weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall
be allowed on Sundays or official federal national holidays, except as otherwise
authorized by the community development director.

b. All internal combustion engine-driven equipment shall be equipped with intake and
exhaust mufflers that are in good condition and appropriate for the equipment.

c. Unnecessary idling of internal combustion engines shall be strictly prohibited.

d. Stationary noise-generating equipment such as air compressors or portable power
generators shall be located as far as possible from sensitive receptors. Temporary noise
barriers shall be constructed to screen stationary noise-generating equipment when
located near adjoining sensitive land uses. Temporary noise barriers could reduce
construction noise levels by 5 dBA.
e. “Quiet” air compressors and other stationary noise sources shall be used where technology exists.

f. Noise from construction workers’ radios shall be controlled to a point where they are not audible at existing residences bordering the project site.

g. The developer shall issue a written notice to all businesses, residences, and other noise-sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.

h. In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.

i. A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

13. Mitigation Measure TRANS-1: Ranch Drive shall be restriped to eliminate the existing westbound left-turn pocket, and the eastbound left-turn pocket at Redwood Boulevard shall be extended to provide a minimum of 50 feet of storage.

14. The Project is subject to additional conditions of approval as specified in its accompanying Precise Development Plan and Vesting Tentative Map resolutions.

15. Indemnity and Time Limitations

a. The developer 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 City Council’s action at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney’s fees, and other costs and expenses incurred in connection with such action whether incurred by the developer, the City, and/or parties initiating or bringing such action.

b. The developer 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 developer 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 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 developer.

d. The developer 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.

SECTION 4: Severability

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional on their face or as applied.

SECTION 5: Publication and Effective Date

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or
publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance; and

This ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 5th of December, 2017, and was passed and adopted at a regular meeting of the Novato City Council on the 9th day of January, 2018, by the following vote, to wit:

AYES: Councilmembers
NOES: Councilmembers
ABSTAIN: Councilmembers
ABSENT: Councilmembers

Mayor of the City of Novato

Attest:

City Clerk of the City of Novato

Approved as to form:

City Attorney of the City of Novato

Attachments

Exhibit A – Atherton Place Master Plan Text Amendments
Exhibit B - Atherton Place - Novato General Plan Consistency & Advancement Findings
EXHIBIT A

ATHERTON PLACE

ATHERTON RANCH MASTER PLAN AMENDMENTS

All text and associated graphics describing commercial development on Parcels C and D, referenced as “Commercial Area,” of the Atherton Ranch Master Plan (City of Novato Ordinance No. 1435) is hereby replaced with the following text addressing Atherton Place.

1. Atherton Place. Parcels C and D of the Atherton Ranch Master Plan shall be limited to development of 50 attached residential condominiums and a 1,340 square-foot commercial condominium space, representing a total floor area (FAR) of 0.59, as depicted on the project plans prepared by Van Tilburg, Banvard, & Soderbergh, AIA, and The Guzzardo Partnership, Inc., dated September 15, 2017.

2. Atherton Place – Residential Condominiums. The residential condominiums shall be used for residential dwelling purposes. Home occupations may be conducted consistent with Novato Municipal Code Section 19.34.080, as may be subsequently amended.

3. Atherton Place - Commercial Condominium. The following land use are permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences.

   Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.

4. Residential accessory dwelling units and junior accessory dwelling units shall not be permitted.
EXHIBIT B

ATHERTON PLACE

NOVATO GENERAL PLAN CONSISTENCY & ADVANCEMENT FINDINGS

The following discussion lists policies of the 1996 Novato General Plan applicable to Atherton Place and provides facts in support demonstrating the project’s consistency therewith.

1996 NOVATO GENERAL PLAN

LAND USE CHAPTER

LU Policy 1 Implementation of Land Use Map. Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use definitions, densities and intensities indicated in LU Table 2. Ensure consistency between the General Plan, the Zoning Ordinance, and other land use regulations.

LU Policy 2 Development Consistent with General Plan. Allow development at any density within the range shown by the Land Use Designations Map provided applicable objectives, policies and programs of all chapters of the General Plan are met. Maximum densities (top of stated density range applied to total gross acreage) may in some cases be achieved, but there is no guarantee of achieving the maximum density.

Facts in Support: The Project Site is assigned the Mixed-Use (MU) land use designation of the 1996 Novato General Plan. The MU designation permits the combination of commercial uses (e.g., retail, offices, personal services) and residential units; housing development may only be permitted in conjunction with a qualifying commercial use.

The MU designation addresses development intensity via floor area ratio (FAR), which includes habitable floor area and excludes non-habitable garage areas. The maximum FAR for commercial development is 0.40 and up to 0.80 when housing is incorporated into a project. The MU designation does not specify a maximum or minimum ratio of commercial area to housing space.

The Project includes 50 residential condominiums with a cumulative floor area of 90,823 square-feet and a single commercial condominium space of 1,340 square-feet. The following land uses are proposed to be permitted in the commercial condominium space: accounting services; advertising agencies and services; association, business, corporation, executive, professional and institutional offices; engineering services; legal services; art, design and photographic studios; interior decorating studios; banks and savings and loan facilities; stores and shops for the conduct of any retail business (excluding convenience stores), including but not limited to barber shops, beauty parlors; dressmaking, millinery, shoe and tailor shops; printing, duplication and computer services; delicatessens, coffee shops, restaurants with indoor and/or outdoor seating, and other uses which in the opinion of the Zoning Administrator are of the same general character as those enumerated and will not be obnoxious or detrimental to the attached and nearby residences. Any use proposing the service of alcohol for on- or off-site consumption shall be subject to complying with the requirements of Novato Municipal Code Section 19.34.050, as may be amended.
These activities are consistent with the types of land uses permitted by the MU land use designation.

The Project proposes a cumulative floor area of 92,163 square-feet. This intensity of development represents an FAR of 0.59 based on the Project Site’s area of 3.60 acres. This FAR level falls under the maximum FAR of 0.80 offered to mixed-use projects.

Based on the facts above, the Project is hereby found to be consistent with and advances LU Policies 1 and 2.

LU Policy 7 Growth Management. Recognize the available and planned capacity of infrastructure and public services when considering proposals for development.

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 and services addressing potable and recycled water, sewer, emergency medical/fire, and stormwater control. Each agency has provided conditions of approval intended to insure the Project provides adequate infrastructure and has confirmed the ability to serve the Project. 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 to serving the Project on an individual or cumulative basis.

The CEQA IS/MND prepared for the Project 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 CEQA IS/MND also analyzed the demand for public parks and other government service facilities. The CEQA IS/MND confirmed all 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 facts above and the analyses, impact findings, and mitigation measures specified in the CEQA IS/MND, the Project is hereby found to be consistent with LU Policy 7.

TRANSPORTATION CHAPTER

TR Policy 4 Level of Service Standards. Establish traffic Level of Service (LOS) standards for use in (1) evaluating the impacts of proposed development projects so the project can be redesigned or effective mitigation measures can be implemented, (2) making improvements to the roadway system, and (3) determining appropriate traffic impact fees.

TR Program 4.1: Establish traffic Level of Service standards as follows:

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: The CEQA IS/MND prepared for the Project analyzed the potential traffic implications of constructing and operating the Project at the Project Site both individually and cumulatively.
The CEQA IS/MND concluded the Project's incremental addition of 23 AM and 31 PM peak hour trips to existing traffic conditions would not cause the intersections serving the Project Site to exceed the level of service (LOS) thresholds established by TR Program 4.1 individually; all intersections would operate at LOS B or better.

Under cumulative (future) conditions, the intersections serving the Project are projected to operate at LOS F in an unmitigated condition. The CEQA IS/MND observed the Project would pay development impact fees that would be applied to capacity enhancements at the Atherton/San Marin/US 101 interchange and reimburse improvements already made to the intersection of Olive Avenue and Redwood Boulevard. Improvements to these intersections are expected to maintain an acceptable LOS under cumulative development conditions.

The CEQA IS/MND notes the intersection of Golden Gate Place, Ranch Drive, and Redwood Boulevard, operating at LOS A with and without the Project in the near term, would operate at LOS F under cumulative development conditions. The CEQA IS/MND indicates the Project does not contribute to this impact. Instead, this impact is attributed to the development of new retail outlets on the east side of Redwood Boulevard between Olive Avenue and San Marin Drive. The CEQA IS/MND indicates this particular intersection would operate acceptably at LOS C under future conditions if signalized. This matter is being addressed through Novato’s ongoing General Plan update, which includes a CEQA assessment addressing future retail development in the North Redwood Corridor.

Based on the findings of the traffic analysis presented in the CEQA IS/MND, the Project is hereby found to be consistent with and advance Transportation Policy 4.

**TR Policy 11 Traffic Safety.** Improve the safety of the roadway system.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for safety hazards related to roadway operations and project design, as well as cumulative impacts on roadway infrastructure. The CEQA IS/MND concluded the Project would not provide sufficient vehicle queuing capacity in the eastbound left-turn pocket on Ranch Drive, representing a potential traffic hazard. Mitigation Measure TRAN-1 is proposed to avoid this hazard by requiring restriping of Ranch Drive to eliminate an existing westbound turn pocket on Ranch Drive and extending the eastbound left-turn pocket to provide a minimum of 50-feet of vehicle queuing space. No other traffic safety issues were identified for the Project.

Based on the facts above, the Project is hereby found to be consistent with TR Policy 11.

**HOUSING**

CI Policy 1 Compatibility of Development with Surroundings. Ensure that new development is sensitive to the surrounding architecture, topography, landscaping, and to the character, scale, and ambiance of the surrounding neighborhood. Recognize that neighborhoods include community facilities needed by Novato residents as well as homes, and integrate facilities into neighborhoods.

HO Policy 3.2 Design that Fits into the Neighborhood Context. It is the City’s intent that neighborhood identity and sense of community will be enhanced by designing all new housing to have a transition of scale and compatibility in form to the surrounding area.
Facts in Support: The Atherton Ranch neighborhood sets the primary context for the Project. Atherton Ranch is a diverse development featuring 91 two-story single-family residences, a 40-unit two-story senior apartment complex, 23 three-story (two floors over a garage) townhomes, and offices at the former Pinheiro House. The neighborhood includes a curvilinear street pattern and a private park of approximately 0.71 acres. The surrounding context includes Redwood Boulevard, an arterial street bordered to the east by undeveloped commercial properties, a small grouping of light industrial uses, and retail and commercial service establishments. The overall context can be characterized as transitioning from the commercial feel and appearance of Redwood Boulevard to the calmer residential setting of the private park, townhomes, and single-family residences in Atherton Ranch.

The Project’s primary and alternative site designs present a logical arrangement of larger building blocks at Redwood Boulevard transitioning to smaller groupings of condominiums as development moves closer to the private park and townhomes to the west. Accordingly, the Project is considered to have an appropriate transition of scale from the busier context of Redwood Boulevard to the calmer feel of the private park and Victorian townhomes in Atherton Ranch.

The building forms proposed in the Project are patterned after the Victorian townhomes in Atherton Ranch, including an arrangement of two-floors of living space over a garage and building heights ranging from a maximum height of 34-feet at Buildings 4 and 9 and up to 39-feet for balance of the residential condominium buildings. These heights are comparable to the approximately 38-foot height of the Victorian townhomes at Atherton Ranch.

The Project’s primary and alternative site designs also engage the private park and street system in Atherton Ranch. In particular, Buildings 1 and 12 have their primary entries fronting on the private park similar to the Victorian townhomes at Atherton Ranch. In addition, the condominium units adjacent to the private park and Ranch Drive and Pinheiro Circle feature porches that wrap to the sides of the buildings bringing a sense of activity to the park and streets.

A Craftsman architectural style is proposed for the Project. This styling reflects the architecture of the single-family homes at Atherton Ranch, but differs from the Victorian styled townhomes closest to the Project Site. Craftsman and Victorian architecture are compatible with one another and commonly found to be mixed in historic neighborhoods.

The Project was presented to the Novato Design Review Commission on July 8, 2015, and August 3, 2016. The purpose of these meetings was to review the Project’s site design, building height/massing, and architecture and landscape concepts in light of the design related policies of the Novato General Plan, the physical characteristics of the Project Site, and the pattern of surrounding development.

The Design Review Commission adopted a motion recommending the Planning Commission and City Council approve the site design, building height/massing, and architecture and landscape concepts for the Project. The Design Review Commission recognized the Project for its well resolved site plan, appropriate building height/mass, and acceptable architecture and landscape concepts. The Design Review Commission made the observations that the Project would be compatible with the characteristics of the Project Site and surrounding residential development, in particular the private park and Victorian townhomes at Atherton Ranch. The Design Review Commission’s recommendation was based on the required findings for design review actions and applicable design related policies of the Novato General Plan.
Based on the facts above, the Project is hereby considered to be consistent with CI Policy 1 and HO Policy 3.2.

**HO Policy 3.3 Housing Design Principles.** The intent in the design of new housing is to provide stable, safe, and attractive neighborhoods through high quality architecture, site planning, and amenities that address the following principles:

a. Reduce the perception of building bulk. In multi-unit buildings, encourage designs that break up the perceived bulk and minimize the apparent height and size of new buildings, including, for example, the use of upper story setbacks and landscaping. Application of exterior finish materials, including siding, trim, windows, doors and colors, are important elements of building design and an indicator of overall building quality.

Facts in Support: The Project’s architectural design minimizes the appearance of building height and mass by including the following:

- roofs of varying heights and planes providing vertical articulation
- window bays with shed roof dormers creating horizontal and vertical articulation
- consistent rhythm of window with large window openings avoiding large uninterrupted wall planes
- covered porches and window bays on the side elevation of end units creating four sided architectural interest
- variation of finish materials, including a mix of stucco, shingle, and horizontal and vertical siding, avoiding the monotony of a single siding type
- varying garage door designs to avoid a monotonous rhythm of blank spaces on rear elevations of the condominiums
- decorative bracketing, corbels, and column features adding relief and architectural interest to the exterior elevations.

b. Recognize existing street patterns. Where appropriate, encourage transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Design new housing so that, where appropriate, it relates to the existing street pattern.

Facts in Support: The Project Site fronts on Redwood Boulevard, Ranch Drive, and Pinheiro Circle. Redwood Boulevard is an arterial street with a commercial pattern of development. The condominium buildings at Redwood Boulevard are located approximately 26.5-feet away from the back of sidewalk along this roadway, providing a generous and appropriate transition from public space (sidewalk) to semi-private landscaped spaces and private courtyards.
Ranch Drive and Pinheiro Circle are residential streets and are defined by existing residences with front entries and porches facing the street. The Project has several condominium units with side elevations adjoining Ranch Drive and Pinheiro Circle. The side elevations of these condominiums feature a wrap-around porch and window bays giving the appearance of a traditional front elevation. This design treatment relates well to Pinheiro Circle and Ranch Drive and is consistent with the pattern of development in Atherton Ranch.

The Project does not present any potential privacy issues with nearby residences since there is substantial distance between proposed and existing residential units.

c. Enhance the “sense of place” by incorporating focal areas where appropriate. Design new housing around natural and/or designed focal points, emphasized through pedestrian/pathway or other connections.

Facts in Support: The Project’s primary and alternative site designs orient new development on internal landscape spaces and the street edges along Ranch Drive, Pinheiro Circle, and Redwood Boulevard. In addition, the project includes a strong pedestrian orientation with connectivity to internal outdoor spaces, guest parking, and the surrounding street system. Key focal areas and pedestrian amenities include:

- a plaza space at Redwood Boulevard
- two interior landscaped courtyard spaces
- a central pedestrian spine running east and west from the plaza at Redwood Boulevard to the outdoor use area between Buildings 1 and 12
- a pedestrian pathway connecting to the main guest parking areas within the project and the interior courtyard areas
- an outdoor seating area connected to the commercial tenant space

d. Minimize the visual impact of parking areas and garages. Discourage home designs in which garages dominate the public façade of the home (e.g. encourage driveways and garages to be located to the side or rear of buildings, or recessed, or along rear alleyways or below the building in some higher density developments).

Facts in Support: The garages and guest parking stalls in the Project would be accessed by internal drive aisles. Several garages would be visible from Pinheiro Circle and Ranch Drive. However, these garages do not directly front onto these streets and would not dominate the street facing façades of the condominium units. The Project includes a variety of garage door designs to avoid a monotonous pattern of doors.

The majority of the Project’s surface parking stalls are concentrated in the center of the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding
streets, will not dominate the streetscape or detract from the Project or the larger Atherton Ranch development.

Based on the facts above, the Project’s primary and alternative site design and architecture and landscape concept are hereby found to be consistent with HO Policy 3.3.

HO Policy 7.2 Variety of Housing Choices. In response to the broad range of housing needs in Novato, the City will strive to achieve a mix of housing types, densities, affordability levels and designs. The City will work with developers of ‘non-traditional’ and innovative housing approaches relating to the design, construction and types of housing that meet local housing needs, which may include, but not be limited to, provision of the following types of housing at varying affordability levels:

a. Owner and renter housing
b. Small and large units
c. Single and multi-family housing
d. Housing close to jobs and transit
e. Mixed use housing
f. Supportive housing
g. Single Room Occupancy units (SRO’s)
h. Shared living opportunities and co-housing
i. Manufactured housing
j. Self-help or “sweat equity” housing
k. Cooperatives or joint ventures
l. Assisted living

Facts in Support: The Project provides a mix of medium to large residential condominiums, a multi-family housing type that is in demand in Novato. Accordingly, the Project is hereby found to be consistent with HO Policy 7.2.

ENVIRONMENT

EN Policy 7 Water Quality: Encourage protection of water resources from pollution and sedimentation, and preserve their environmental and recreation values.

EN Policy 35 Watershed Management. Minimize the effects of pollution in stormwater runoff. Retain and restore where feasible the natural hydrological characteristics of watersheds in the Novato Area of Interest.

EN Policy 37 Using CEQA to Reduce Water Quality Impacts. Use the provisions of the California Environmental Quality Act (CEQA) process to identify measures to prevent erosion, sedimentation, and urban runoff pollution resulting from development.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for water quality impacts to result from construction and operation of the Project. As discussed in the CEQA IS/MND, the Project is required to comply with provisions of the National Pollution Discharge Elimination System (NPDES) and the State Water Resources Control Board’s Phase II Small Municipal Separate Storm Sewer Systems Permit (MS4s Permit).
The NPDES program requires the preparation and implementation of a Storm Water Pollution Prevention Plan (SWPPP) to reduce potential adverse impacts to surface water quality through the Project’s construction period. The SWPPP must include Best Management Practices (BMPs) addressing erosion and sediment control, management of non-stormwater discharges, run-on and runoff controls, and BMPs for inspection/maintenance/repair activities. These requirements must be satisfied prior to issuance of a grading or building permit for the Project and implemented during construction.

The MS4s permit program requires the development and implementation of a post-construction stormwater control plan (SCP) that incorporates low impact development elements to maintain a project site’s pre-development stormwater run-off rates and volumes. The requirements of the MS4s permit are managed by the Marin County Stormwater Pollution Prevention Program (MCSTOPP) with guidance via a design manual prepared by the Bay Area Stormwater Management Agencies Association (BASMAA). Low impact design elements include the use of permeable pavements and bioretention areas where stormwater run-off can be naturally filtered prior to entering the public stormwater drainage system.

The project developer has submitted a preliminary stormwater control plan for the Project. The preliminary stormwater control plan has been reviewed by the Novato Public Works Department, which has determined the preliminary plan demonstrates the Project’s stormwater drainage design can meet the requirements of the MS4s permit. The Public Works Department has applied conditions of approval requiring the applicant to prepare a final SCP, as well as a SWPPP and Erosion and Sediment Control Plan. These documents will be submitted with the improvement plans prepared for the construction phase of the Project.

Compliance with the programs and conditions of approval noted above would ensure the Project protects water resources consistent with EN Policies 7, 35, and 37.

EN Policy 19 Special Status Species. Cooperate with State and Federal Agencies to ensure that development does not substantially adversely affect special status species appearing on the State or Federal list for any rare, endangered, or threatened species. The environmental documentation will screen for the Federal Candidate Species, plants listed on lists 1A, 1B, or 2 of the California Native Plant Society (CNPS), inventory of rare and endangered vascular plants of California and animals designated by CDFG as species of special concern or their current equivalent.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential for impacts to special status species resulting from construction and operation of the Project. As described in the CEQA IS/MND, the Project Site does not host sensitive natural communities or native populations of plants or animals. However, the CEQA IS/MND observed the Project could potentially impact birds and/or raptors nesting in trees located on the Project Site. Given this circumstance the CEQA IS/MND recommends implementation of mitigation measure BIOLOGY-1.

Mitigation Measure BIOLOGY-1 is intended to reduce and/or avoid the Project's potential to disturb nesting birds during construction of the Project. Mitigation Measure BIOLOGY-1 requires pre-construction surveys for nesting birds no more than 7-days prior to the commencement of grading or vegetation removal. Mitigation Measure BIOLOGY-1 provides specific steps to be followed in the event nesting birds are located, including consultation with the California
Department of Fish and Wildlife and the establishment of appropriate buffer areas within which construction work would not be permitted until young birds have fledged.

Based on the findings of the CEQA IS/MND and implementation of the noted mitigation measure, the Project is hereby found to be consistent with and advance EN Policy 19.

EN Policy 25 **Trees on Private Property.** Encourage and, where appropriate, require actions by private property owners to protect the health of native woodlands and trees.

EN Policy 26 **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 hosts a stand of heritage size oak trees along Pinheiro Circle. The Project’s primary and alternate site designs avoid the placement of new buildings within the dripline of these trees. However, portions of a driveway and two-parking stalls and water/sewer lines would encroach into the dripline of certain oak trees. The CEQA IS/MND prepared for the Project analyzed these improvements and recommends Mitigation Measure BIOLOGY-2 to minimize potential damage to tree roots resulting from the noted encroachments.

Mitigation Measure BIOLOGY-2 requires a variety of steps to prevent damage to regulated trees, including, but not limited to: a) defining a tree protection zone for each regulated tree (typically 18- to 20-feet in all directions from tree trunk); b) supervision of work by a consulting arborist; and c) the use of permeable pavers where paved features must encroach into the tree protection zone.

Compliance with Mitigation Measure BIOLOGY-2 would minimize the possibility of damaging the roots of the existing oak trees along Pinheiro Circle consistent with EN Policies 25 and 26.

EN Policy 29 **Energy Conservation Measures in Buildings.** Reduce energy consumption by requiring structures to meet the energy conservation requirements stipulated in the State Building Code and State Title 24 regulations.

Facts in Support: The Project is required to comply with the uniform energy efficiency requirements of the California Building Code and Title 24 of the California Code of Regulations. In addition, the Project is required to comply with Novato’s Green Building Ordinance. These regulatory documents require various energy efficiency features, such as minimum R-value insulation, energy efficient windows, and low-energy use lighting systems. The Project’s construction drawings will be reviewed for energy efficiency compliance when a plan check is performed prior to the issuance of a building permit.

Based on the observations above, the Project is hereby found to be consistent with and advance EN Policy 29.

EN Policy 34 **Local Efforts.** Encourage local efforts to improve air quality.

Facts in Support: The CEQA IS/MND prepared for the Project analyzed the potential effect of the development on air quality. The CEQA IS/MND conclude the project could generate dust and
toxic air contaminants (TACs) consisting of diesel particulate matter that may negatively impact the environment. Given this circumstance the CEQA IS/MND recommends Mitigation Measures AIR-1 and AIR-2 to minimize dust and TACs from construction equipment exhaust.

Mitigation Measure AIR-1 is proposed to avoid the release of fugitive dust during construction of the Project via implementation of best management practices recommended by the Bay Area Air Quality Management District (BAAQMD), including watering exposed soils, tarping soil stockpiles, limiting construction vehicle speeds, and posting contact information to report dust complaints. These actions would protect local air quality by minimizing the potential for construction related dust.

Mitigation Measure AIR-2 is proposed to reduce toxic air contaminants resulting from the operation of diesel powered equipment during construction of the Project. Mitigation Measure AIR-2 requires the developer to implement Mitigation Measure AIR-1 and also ensure that construction equipment is selected to minimize exhaust emissions, such as operating diesel-powered off-road equipment meeting U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent and/or the use of California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively fueled equipment (i.e., non-diesel). Compliance with these provision would protect local air quality by minimizing diesel exhaust emissions.

Based on the findings of the CEQA IS/MND and implementation of Mitigation Measures AIR-1 and AIR-2, the Project is hereby found to be consistent with EN Policy 34

**SAFETY & NOISE**

SF Policy 1 Seismic Hazards. Reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards.

SF Policy 3 Slope and Soil Instability. Continue to enforce existing regulations and procedures to identify potential hazards relating to geologic and soils conditions.

Facts in Support: The CEQA IS/MND prepared for the Project considered the soil and seismic hazards potentially affecting structures on the Project Site. The CEQA IS/MND determined the Project Site is subject to significant hazards as a result of strong seismic ground shaking. Given this circumstance, the CEQA IS/MND recommends Mitigation Measure GEOLOGY-1 to reduce the risk of loss, injury, or death related to strong seismic ground shaking. Mitigation Measure GEOLOGY-1 requires the Project to be designed and constructed in accordance with the California Building Code and recommendations of the Project’s design-level geotechnical report, addressing such items as over-excavation of weak soils, the placement and compaction of engineered fill soils, and foundation and drainage system design.

Implementation of Mitigation Measure GEOLOGY-1 would reduce the risk of loss of life, personal injury and damage to property resulting from seismic hazards and site specific soil conditions consistent with SF Policies 1 and 3.

SF Policy 9 Storm Drainage System. Maintain unobstructed water flow in the storm drainage system.

Facts in Support: The project developer submitted a preliminary drainage plan for the Project. The preliminary drainage plan has been reviewed by the Novato Public Works Department to
determine if the existing public stormwater drainage system has sufficient capacity to accommodate the Project’s stormwater run-off. The preliminary drainage plan was found to demonstrate there is adequate capacity in the public drainage system to accommodate the Project. The Public Works Department has applied a condition of approval requiring a final drainage plan for the Project. The final storm drainage plan would be submitted with the improvement plans for the construction phase of the Project.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 9.

SF Policy 16 Fire Risk in New Development. Review all development proposals for fire risk, and require mitigation measures to reduce the probability of fire.

Facts in Support: The Project was referred to the Novato Fire Protection District for review and comment on emergency medical and fire safety issues. The Fire District indicated it was satisfied with the access lanes, parking configuration, and points of entry for the Project. However, the Fire District did recommend conditions of approval to ensure the Project’s design detail plans include key fire and life safety features as required by the District’s adopted standards. The Fire District will review the construction level design plans prepared for the Project to ensure the new condominiums meet the District’s standards.

As described in the Hazards and Hazardous Materials section of the CEQA IS/MND, the Project Site is not located in an area with high fire risk as mapped by the Novato Fire Protection District, and no mitigation is required to reduce the risk of wildland fire.

Based on the facts above, the Project is hereby found to be consistent with SF Policy 16.

SF Policy 37 Noise and Land Use Compatibility Standards. Encourage the maintenance of the noise and land use compatibility standards indicated in SF Table 3.

SF Policy 38 Noise Reduction and Mitigation. Mitigate noise exceeding standards and significant noise impacts to the maximum feasible extent.

Facts in Support (SF Policy 37 & 38): The CEQA IS/MND prepared for the Project determined the residential units proposed along Redwood Boulevard would not meet the City’s standard of 65 dBA Ldn for exterior noise levels at multi-family residential uses. Additionally, the residences at the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) would not meet the City of Novato’s standard of 45 dBA Ldn for interior noise levels with standard construction methods. Given these findings, Mitigation Measure NOISE-1 is recommended in the CEQA IS/MND to reduce exterior noise levels to 65 dBA Ldn and interior noise to 45 dBA Ldn.

Mitigation Measure NOISE-1 requires a 4-foot high solid noise barrier (fence) to reduce exterior noise in the private patios of Buildings 4 and 9 to an acceptable level of 63 dBA Ldn. In addition, Mitigation Measure NOISE-1 requires a qualified acoustical consultant to review the final site plan, building elevations, and floor plans of the end units of Buildings 3 and 10 and units along Redwood Boulevard (Buildings 4 and 9) prior to construction to recommend building treatments to reduce interior noise levels to 45 dBA Ldn. Such treatments may include sound-rated wall and window construction, acoustical caulking, and protected ventilation openings. Mitigation Measure NOISE-1 also requires a forced-air mechanical ventilation system (air conditioning) for Buildings 4 and 9 so that windows may be kept closed at the occupant’s discretion to control interior noise.
As described in the Noise Section of the CEQA IS/MND, the Project would cause a temporary increase in ambient noise levels during construction activities. Accordingly, Mitigation Measure NOISE-2 is proposed to minimize noise disturbances due to construction activities. Mitigation Measure NOISE-2 requires the implementation of a variety of procedures to minimize construction noise, including:

- Construction activities shall be limited to the hours between 7:00 AM and 6:00 PM on weekdays, and between 10:00 AM and 5:00 PM on Saturdays. No construction shall be allowed on Sundays or official federal national holidays, except as otherwise authorized by the community development director.

- All internal combustion engine-driven equipment shall be equipped with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

- Unnecessary idling of internal combustion engines shall be strictly prohibited.

- Stationary noise-generating equipment such as air compressors or portable power generators shall be located as far as possible from sensitive receptors. Temporary noise barriers shall be constructed to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.

- “Quiet” air compressors and other stationary noise sources shall be used where technology exists.

- Noise from construction workers’ radios shall be controlled to a point where they are not audible at existing residences bordering the project site.

- The developer shall issue a written notice to all businesses, residences, and other noise sensitive land uses within a 600-foot radius of the project site advising of the start of construction and providing contact information for the disturbance coordinator for the project and City of Novato, as required below.

- In the event that noise complaints are received and conflicts cannot be resolved with scheduling or equipment adjustments, a temporary noise control blanket barrier along the property lines of the construction site between the site and adjacent buildings may be required by the community development director in the exercise of his/her sole and absolute discretion.”

- A "disturbance coordinator" responsible for responding to any complaints about construction noise shall be designated by the developer or project contractor. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. The name and telephone number of the disturbance coordinator and a contact number for the City of Novato shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the start of construction.

Based on the facts above, the Project is considered to be consistent with SF Policies 37 and 38.
PUBLIC FACILITIES & SERVICES

PF Policy 5 Potable Water. Ensure adequate water supply for new and existing development.

PF Policy 6 Water Conservation. Develop and implement water conservation programs for Novato.

Facts in Support: The Project was referred to the North Marin Water District for review and comment. The Water District did not identify any potential problems meeting the water demands of the Project. The Water District requested the Project connect to its recycled water main located in Redwood Boulevard and comply with District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 addresses plumbing fixtures, plant selection, and irrigation features.

The Project’s conceptual landscape plan details a plant list predominantly comprised of low water use trees, shrubs, and groundcovers. The specifics of the Project’s irrigation and plumbing systems will be developed when construction detail plans are prepared for the development. The Project’s construction detail plans will be reviewed to determine compliance with the District’s water conservation ordinance.

Based on the facts above, the Project is hereby found to be consistent with SF Policies 5 and 6.

COMMUNITY IDENTITY

CI Policy 7 Landscaping. Encourage attractive native and drought-tolerant, low-maintenance landscaping responsive to fire hazards.

Facts in Support: The Project’s final landscape plan will be designed to comply with North Marin Water District Regulation 15, Mandatory Water Conservation Measures. Regulation 15 requires drought tolerant landscaping and water efficient irrigation. In this instance, the Project proposes an extensive plant list comprised predominantly of low water use species with the balance of plants requiring medium water use. In addition, the Project will connect into the Water District’s recycled water line for landscape irrigation. The combination of low water use plants and recycled water for irrigation will minimize water use for landscaping purposes. See also the discussion for SF Policy 16 above.

Based on the facts above, the Project is hereby found to be consistent with CI Policy 7.

CI Policy 9 Undergrounding Utilities. Continue to require undergrounding of utilities.

Facts in Support: All utilities serving the Project will be placed underground consistent with CI Policy 9.

CI Policy 12 Parking Standards. Reduce the visibility of parking facilities and the amount of land necessary for them to the maximum extent feasible.

Facts in Support: Parking for the Project is provided via two-car garages attached to each residential condominium unit and surface parking stalls for guests and tenants/patrons of the retail condominium space. The majority of the surface parking stalls are concentrated in the center of
the Project and are screened from view by the residential condominium buildings when viewed from public vantage points along Redwood Boulevard, Pinheiro Circle, and Ranch Drive. However, there are several surface parking stalls that will be visible from Pinheiro Circle and Ranch Drive. These stalls are bordered by landscape planters that would be planted with various shrubs and trees to screen views of parked vehicles. These particular parking stalls, although visible from surrounding streets, will not dominate the streetscape or detract from the project or the larger Atherton Ranch development.

Based on the facts above, the Project is hereby found to be consistent with CI Policy 12.

**CI Policy 14  Open Areas and Landscaping.** Require provision of adequate landscaped, open areas in project design.

Facts in Support: The Project’s primary site design would provide 50,827 square-feet (1.16 acres) of usable outdoor space, including:

- Ranch Drive Garden (between Bldgs. 2 & 3) - 4,172 sq. ft.
- Pinheiro Circle Garden (between Bldgs. 10 & 11) - 3,813 sq. ft.
- Atherton Village Green (between Bldgs. 9 & 4) - 3,911 sq. ft.
- The Promenade (between Bldgs. 5, 6, 7, & 8) – 6,326 sq. ft.
- The Park (between Bldgs. 1 & 12; Atherton Ranch Park Easement) – 20,888 sq. ft.
- Private Residential Patios – 11,717 sq. ft.

The Project’s alternative site design would provide 43,409 square-feet (.99 acres) of usable outdoor space, including all of the features listed above and excluding improvements within the Atherton Ranch Home Owners’ Association (Atherton Ranch HOA) park easement (approximately 7,418 sq. ft.).

The figures above do not include the undeveloped area surrounding the heritage oak trees along Pinheiro Circle.

Both site designs include the addition of two children’s play structures. These features were added to the Project at the request of the Atherton Ranch HOA. This request was based on concerns the Project did not provide sufficient play features and would therefore lead to increased use of the existing play structures in the private park at Atherton Ranch.

The usable open space provided by the primary site design and alternative site plan provide two-and-a half to two times the amount of open space area required for multi-family residential projects by the Novato Municipal Code. The Novato Municipal Code does not require the provision of children’s play structures in outdoor use areas.

Based on the observations above, the Project is hereby found to be consistent with CI Policy 14.

**CI Policy 15  Pedestrian Paths.** Provide for maximum feasible pedestrian circulation.

Facts in Support: The Project features a clearly defined pedestrian circulation system with each residential unit connected to a walkway offering a path of travel to outdoor space amenities, surface parking areas, and the surrounding street system. Notable pedestrian amenities include the promenade and connecting pathways between Buildings 5, 6, 7, and 8 and the generously wide...
sidewalk offered along Redwood Boulevard. Based on these features, the Project is hereby found to be consistent with CI Policy 15.

CI Policy 30   Archaeological Resources Protection: Continue to protect archaeological resources.

Facts in Support: The CEQA IS/MND prepared for the Project indicates there are no known archaeological or paleontological resources at the Project Site. Regardless, there remains a possibility that unknown, buried prehistoric or paleontological resources could be encountered or damaged during construction of the Project. Given this circumstance, the CEQA IS/MND recommends implementation of Mitigation Measures CULTURAL-1a, CULTURAL-1b, CULTURAL 2, and CULTURAL-3 to avoid impacts to such resources if encountered during construction.

Mitigation Measures CULTURAL-1a and CULTURAL-1b are proposed to ensure the protection of unknown, buried cultural resources. Mitigation Measure CULTURAL-1a requires the applicant to retain a qualified archeological consultant to develop and implement an archeological monitoring program to ensure any archeological resources uncovered during site preparation and construction are identified and appropriately treated. Mitigation Measure CULTURAL-1b requires all work to be stopped within 50-feet of a suspected archeological resource and review of any such find by a qualified archeologist.

Mitigation Measure CULTURAL-2 is intended to ensure the protection of paleontological resources. Mitigation Measure CULTURAL-2 stipulates that if a suspected fossil is encountered, construction shall be halted within 50 feet of the find and a qualified paleontologist shall be contacted to assess the find. If deemed scientifically significant, a treatment plan shall be developed by a qualified paleontologist.

Mitigation Measure CULTURAL-3 is proposed to ensure the protection of unknown, buried human remains. Mitigation Measure CULTURAL-3 requires compliance with the uniform procedures of Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the California Public Resources Code. The cited code sections specify the procedures that shall be implemented should buried human remains be encountered during project construction, including notifying the county coroner within 24-hours of discovery and contacting the Native American Heritage Commission should the remains be determined to be Native American. The most likely decedent of a deceased Native American or their representative shall then determine, in consultation with the property owner, treatment of the human remains.

Based on the facts above, the Project is not anticipated to have an adverse effect on archeological or paleontological resources and is hereby found to be consistent with CI Policy 30.