

STAFF REPORT



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THE CITY OF
NOVATO
CALIFORNIA

MEETING

DATE: February 13, 2018

TO: City Council

FROM: Terrie Gillen, City Clerk

922 Machin Avenue
Novato, CA 94945
415/ 899-8900
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www.novato.org

**SUBJECT: ADOPT AN ORDINANCE AMENDING THE MCPHAIL'S
COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN**

REQUEST

Adopt an ordinance amending the McPhail's Commercial Development Master Plan, adopted by the City of Novato Ordinance No. 1537, to rescind and replace all text addressing business and professional office use, and replacing the same with a list of permitted and conditionally permitted uses for 5400 Hanna Ranch Road, APNs 153-220-16 and -19 in accordance with the City of Novato Municipal Code, Chapter 19, and the conservation and planning law of the State of California.

BACKGROUND

This ordinance was introduced, by Senior Planner Hans Grunt, at the public hearing, which was held at the City Council meeting of January 23, 2018. Once the ordinance is adopted, it will go into effect thirty days after the date of adoption.

RECOMMENDATION

Adopt the ordinance.

ATTACHMENT

1. Draft Ordinance

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1636

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO TO AMEND THE MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN, ADOPTED BY CITY OF NOVATO ORDINANCE NO. 1537, TO RESCIND AND REPLACE ALL TEXT ADDRESSING BUSINESS AND PROFESSIONAL OFFICE USE, AND REPLACING THE SAME WITH A LIST OF PERMITTED AND CONDITIONALLY PERMITTED USES FOR 5400 HANNA RANCH ROAD, APNs 153-220-16 AND -19 IN ACCORDANCE WITH THE CITY OF NOVATO MUNICIPAL CODE, CHAPTER XIX, AND THE CONSERVATION AND PLANNING LAW OF THE STATE OF CALIFORNIA

WHEREAS, the City Council of the City of Novato ("City") adopted Ordinance No. 1537 on November 11, 2008, approving the McPhail's Commercial Office Development Master Plan (hereafter "Master Plan") for 5400 Hanna Ranch Road, APNs 153-220-16 and -19 (hereafter "Project Site"); and

WHEREAS, the approved Master Plan text describes the allowed development size in square feet and the type of commercial uses allowed, which are consistent with uses as allowed pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code; and

WHEREAS, the City received an application (116038) proposing to amend the Novato General Plan Land Use Map designation, the Master Plan uses text, and corresponding Precise Development Plan text (hereafter "Project") for the Project Site; and

WHEREAS, the Master Plan is proposed to be amended to rescind and replace all text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code with uses as described in text pursuant to *Exhibit A* attached hereto and incorporated herein by reference; 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 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 Project that could not be mitigated to a less than significant level; and

WHEREAS, the Planning Commission held a public hearing on December 18, 2017, and considered all oral and written comments on the Project, including the proposed amendments to

the Master Plan at issue herein; and

WHEREAS, public notices describing the Planning Commission's public hearing regarding the Project, including the proposed amendments to the Master Plan at issue herein, were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction and operation, 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 28, 2017; and

WHEREAS, the Planning Commission did adopt a resolution recommending the City Council approve the Master Plan amendment as issue herein; and

WHEREAS, public notices describing the City Council's public hearing regarding the Project, including the proposed amendments to the Master Plan at issue herein, were sent to all affected property owners within 600-feet of the boundaries of the Project Site, all public agencies potentially serving the Project or having some oversight of the Project's construction and operation, 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 January 12, 2018; and

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

WHEREAS by separate resolution adopted prior hereto the City Council adopted a change to the Novato General Plan Land Use Map land use designation assigned to the Project Site, from Business and Professional Office (BPO) to Light Industrial Office (LIO); and

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF NOVATO DOES FIND AND ORDAIN AS FOLLOWS:

SECTION 1: The foregoing recitals are true and correct and are incorporated into the findings herein.

SECTION 2: The Record of Proceedings ("Record") upon which the City Council bases its decision includes, but is not limited to: (1) the currently approved McPhail's Commercial Office Development mitigated negative declaration, Resolution No. 86-08, the currently approved Master Plan, Ordinance No. 1537, the currently approved Precise Development Plan, Resolution No. 87-08, the approved Tentative Map, Resolution No. 87A-08, and approved Design Review, Resolution No. 88-08 (the Original Development Entitlements), (2) the Initial Study and the appendices and technical reports cited in and/or relied upon in preparing the Original Development Entitlements and the IS/MND, (3) 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, (4) the evidence, facts, findings and other determinations set forth in this resolution, (5) the City of Novato 1996 General Plan and its related EIR and the Novato Municipal Code, (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, 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 3: 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 Project is 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 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 proposed land uses, development intensity, and previously approved 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 other government service facilities. The IS/MND confirmed the noted service providers have and/or have planned provisions for sufficient capacity, facilities, infrastructure, equipment, and staff to serve the Project.

The noted agencies are requiring conditions of approval for the Project's approved design to ensure it will incorporate infrastructure improvements that will meet each agency's respective standards. The conditions of approval will be incorporated and implemented through design of the improvements drawings for the Final Map and subsequent building permits to construct the Project. 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 Hanna Ranch Road right-of-way and are available to the Project.

Based on the observations above and the supporting facts presented in *Exhibit B*, attached hereto and incorporated herein by reference, the Project 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.

Design and Use Compatibility

As previously determined by City Council through its approval of the project design on November 11, 2008, following the recommendations of the Design Review Commission and Planning Commission, the project provides an orderly site design inclusive of integrated vehicle and pedestrian circulation, parking, outdoor patio space, landscaping, and building intensity, size and design that is well suited for the Project Site and demonstrates sensitivity to the surrounding setting and planned uses to the north, within the pending site development known as Hanna Ranch.

The Project land uses are considered to be well suited for the approved project as situated and designed. Added controls i.e. indoor only activities for Equipment Rental, and the requirement to obtain a use permit for those uses (specifically Fleet Vehicle Parking, Minor Auto Repair and Maintenance, Restaurant and Auto Sales) that are identified to potentially create other impacts e.g. parking, visual, noise etc. if left unregulated will allow the City to impose limitations e.g. design and/or operating characteristics to ensure these uses, if proposed, are compatible with other site uses and/or pending uses on surrounding properties, including planned uses to the north, within the planned site development known at Hanna Ranch.

Based on the observations above, the Project's development and proposed uses are hereby found to be reasonably suited to the specific characteristics of the Project Site and the surrounding neighborhood and would be compatible with future land uses that may locate in the project vicinity.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS: The Master Plan, Ordinance No. 1537, is hereby amended to rescind and replace all text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District as prescribed in Section 19.12.030 of Chapter 19, Zoning Ordinance, of the Novato Municipal Code with uses as set forth in text pursuant to **Exhibit A** attached hereto and incorporated herein by reference, based on the findings set forth herein and subject to the conditions of approval and indemnity and Time Limitations set forth below.

SECTION 4: Conditions of Approval and Indemnity and Time Limitations

1. Mitigation Measure AIR-1: Prior to issuance of demolition, grading, and/or building permits the applicant shall submit an inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:

- a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
 - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
 - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. Mitigation Measure AIR-1: All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
3. Mitigation Measure AIR-1: All haul trucks transporting soil, sand, or other loose material off site shall be covered. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
4. Mitigation Measure AIR-1: 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. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
5. Mitigation Measure AIR-1: All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
6. Mitigation Measure AIR-1: 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. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
7. Mitigation Measure AIR-1: 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 the California Code of Regulations). Clear signage shall be provided for construction workers at all access points. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
8. Mitigation Measure AIR-1: All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation. This requirement shall be included as notes on construction plans and subject to verification through field inspections.
9. Mitigation Measure AIR-1: The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48

hours. The Bay Area Air Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

10. Mitigation Measure BIO-1: If tree removal or construction activities begin during the nesting season (February 1 through August 31), a qualified biologist shall conduct preconstruction surveys for any raptor or other nesting migratory bird nests within or immediately adjacent to the project site no more than 30 days prior to the commencement of any construction activity or tree removal. The pre-construction surveys shall be conducted between February 1 and August 31, and shall follow accepted survey protocols for nesting birds. Trees within a 200-foot radius shall be included in the surveys. If active nests are located in the work area, the biologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall establish an appropriately sized buffer around the nest within which no work shall be allowed until the young have successfully fledged. A 50-foot buffer shall be placed around passerine nests and a 250-foot buffer shall be placed around raptor nests. If the qualified biologist determines that a smaller buffer zone is acceptable, the size of the buffer zone may be reduced upon approval by CDFW.
11. Mitigation Measure CUL-1: In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.
12. Mitigation Measure CUL-2: If a suspected paleontological fossil is encountered, project 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, the find shall be recorded and salvaged by a qualified paleontologist.
13. Mitigation Measure CUL-3: If human remains are encountered, the City of Novato shall ensure that work is halted in the vicinity and the County Coroner is notified. At the same time, a qualified archaeologist shall be contacted to evaluate the situation. If human remains are of Native American origin, the County Coroner shall notify the Native American Heritage Commission within 24 hours of identification, pursuant to Public Resources Code Section 5097.98.
14. Mitigation Measure H-1: Site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will

be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

- 15 The Project is subject to existing mitigation measures set forth in the previously adopted mitigated negative declaration, Resolution No. 86-08, and all conditions of approval set forth in the approved Master Plan, Ordinance No. 1537, Precise Development Plan, Resolution No. 87-08 and Tentative Map, Resolution No. 87A-08.
16. 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 Planning Commission's recommendation to the City Council 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 5: The City Council hereby approves the proposed Master Plan amendment, as more fully described in *Exhibit A* attached hereto, based on the findings set forth above.

SECTION 6: 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 7: 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.

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 23rd day of January, 2018, and was passed and adopted at a regular meeting of the Novato City Council on the ____ day of ____, 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 – McPhail’s Commercial Office Development Master Plan Text Amendments

Exhibit B McPhail’s Commercial Office Development - Novato General Plan Consistency & Advancement Findings

EXHIBIT A

MCHAIL'S COMMERCIAL OFFICE DEVELOPMENT MASTER PLAN AMENDMENTS

All text referencing allowed uses and uses requiring a use permit pursuant to the Business and Professional Office Zoning District of the McPhail's Commercial Office Development Master Plan (City of Novato Ordinance No. 1537) is hereby replaced with the following text addressing allowed uses and uses requiring a use permit:

Allowed uses and uses requiring a use permit

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking – Use Permit required
- Minor Auto Repair and Maintenance – Use Permit required
- Restaurant – Use Permit required
- Restaurant with Alcohol Sales - Use Permit required, including compliance with the requirements of Novato Municipal Code Section 19.34.050, as may be amended
- Auto Sales – Use Permit required

Note: With the exception of Fleet Vehicle Parking, all uses listed above are based on the definitions for each as provided in [Section 19.60.020 – Definitions of Specialized Terms and Phrases of the Zoning Ordinance](#). Regarding Fleet Vehicle Parking, the following definition is applied:

Fleet Vehicle Parking: Fleet Vehicle Parking can include groups of nine or more motor vehicles owned or leased by a business, government agency or other organization rather than by an individual or family. Typical examples are vehicles operated by car rental companies, taxi cab companies, public utilities, bus companies, parcel delivery service, equipment (e.g., plumbing, electrical, landscaping, solar) installation and repair service, and police departments. Additionally, fleet vehicle does not include tractor trailers, heavy equipment or vehicles designed for executing construction tasks.

EXHIBIT B

MCPHAIL'S COMMERCIAL OFFICE DEVELOPMENT

NOVATO GENERAL PLAN CONSISTENCY & ADVANCEMENT FINDINGS

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 includes a general plan amendment to change the land use designation applicable to the Project Parcel from Business and Professional Office (BPO) to Light Industrial Office (LIO). This action would uniformly apply the LIO land use designation to a 4.9 acre area as depicted in Exhibit A. The Project also includes a zoning amendment in the form of a master plan amendment that would assign new land use categories to the Project Site as follows:

McPhail's Commercial Office Development principally permitted uses and those uses requiring a use permit:

- Offices
- Handcraft industries, small-scale manufacturing
- Warehouses, wholesaling, and distribution
- Business Support Services
- Upholstering shops
- Equipment rental (indoor only)
- Florists
- Fleet Vehicle parking - Use Permit required
- Minor Auto Repair and Maintenance - Use Permit required
- Restaurant - Use Permit required
- Restaurant with Alcohol Sales - Use Permit required
- Auto Sales - Use Permit required

With the exception of Fleet Vehicle Parking, all of the land use contained in the master plan amendment and as listed above match uses contained in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan. Regarding Fleet Vehicle Parking as defined in the master plan amendment, it too is found to be a suitable use in the LIO land use designation of the Novato General Plan inasmuch as it is a use recognized as being comparable to Vehicle Storage, which may be allowed in the LIO zoning district of the Novato Zoning Ordinance, Chapter 19 of the Novato Municipal Code, which has been found to properly implement the goals and policies of the LIO land use designation of the Novato General Plan.

The maximum amount or massing of development, referred to locally as Floor Area Ratio (FAR), allowed under both the BPO and LIO land use districts of the Novato General Plan is 0.4. So no change in the FAR of 0.4 currently allowed for the Project Site would result by amending the General Plan Land Use designation from BPO to LIO. Additionally, no change in the FAR for the approved Project is proposed with the master plan amendment. The master plan allows for a 62,000 square foot office complex, which is equivalent to an FAR of 0.29 for the Project Site and well under the maximum FAR of 0.4 allowed in both the BPO and LIO land use districts of the Novato General Plan.

Based on the facts above, the Project is hereby found to be consistent with and advance 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 approved Project was referred to the Novato Public Works Department, Novato Sanitary District, North Marin Water District, and the Novato Fire Protection District. These government entities are responsible for ensuring the provision of adequate infrastructure for water, sewer, emergency medical/fire, and stormwater control. Each agency provided draft conditions of approval intended to insure the Project provides adequate infrastructure. These conditions of approval were adopted for the Project and are to be implemented through the construction design and physical construction phases of the Project. These agencies did not identify any service constraints to serve the Project on an individual or cumulative basis. Additionally, the proposed new uses allowed in the master plan have been considered relative to the capacity of infrastructure and services for the Project and no significant demand increase was identified e.g. the nature of the proposed uses would, in general, use more building space for storage and/or processing, which results in fewer vehicle trips compared to the range of office uses allowed in the BPO zoning district thereby reducing demand on the adjacent circulation system.

The CEQA IS/MND prepared for the Project analyzed the ability of local government services including police and fire protection and public utilities to serve the approved Project and the associated proposed land use amendments. The 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 set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, 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.

Facts in Support: The CEQA IS/MND prepared for the proposed land use amendments analyzed a traffic study that was prepared for the 2008 approved project that concluded the additional traffic generated by the project would have no significant impact to the surrounding network area. No mitigations were required for the original project. Additionally, the CEQA IS/MND prepared for the proposed land use amendments points out that the nature of the changed uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan would, in general, use space to store and/or process material. These uses would create fewer trips compared to the dense use of office buildings with office employees and visitors allowed under the BPO zoning district. Thus the proposed land use and zoning change would have a less-than-significant impact on the performance of the circulation system or conflict with an applicable congestion management program.

Based on the facts set forth above and the analyses contained in the CEQA IS/MND, incorporated herein by reference, the Project is hereby found to be consistent with TR Policy 4.

ENVIRONMENT

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

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 described in Section IX, Hydrology and Water Quality, of the IS/MND, the Project would be required to comply with the City of Novato's stormwater control plan implemented in response to the Phase II Stormwater Permit of the National Pollution Discharge Elimination System (NPDES), and prepare and implement a Storm Water Pollution Prevention Plan (SWPPP).

Additionally, pursuant to mitigation measure H-1, the Novato Public Works Department is requiring that the Project's site drainage will be designed to capture and treat runoff and associated pollutants prior to entering the public storm drain. Bioretention areas, vegetated swales, and new storm drain systems would be installed to collect the flow produced by the project including flow from any and all uses that could be anticipated under the proposed changed General Plan land use designation (from BPO to LIO) and amendment to the Master Plan. The proposed drainage design will include a combination of underground retention/infiltration systems and will be developed in compliance with the City's Urban Runoff Pollution Prevention Ordinance (Ordinance No. 1600, Section 1 (Exh. A), 6-16-2015) and the Phase II Small MS4 National Pollutant Discharge Elimination System (NPDES) Permit.

Based on the facts in support noted above, and the analyses contained in the CEQA IS/MND,

incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 7.

EN Policy 18 Species Diversity and Habitat. Protect biological resources that are necessary to maintain a diversity of plant and animal species.

Facts in Support (EN Policy 18): As analyzed in Section IV, Biological Resources, of the IS/MND, the Project could potentially impact nesting birds. However, with implementation of Mitigation Measures BIO-1 the potential impacts to these special-status species would be reduced to a less than significant level.

Mitigation Measure BIO-1 requires a qualified biologist to perform a nesting bird survey prior to construction of the Project. Should nesting birds be located by the biologist, Mitigation Measure BIO-1 lists specific steps to be implemented to protect such birds, including the establishment of buffers areas and consultation with the California Department of Fish and Wildlife.

Based on the findings of the CEQA IS/MND and the noted mitigation measure, incorporated herein by reference, the Project is considered to be consistent with and advance EN Policy 18.

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 noted facts 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: As described in Section III, Air Quality, of the CEQA IS/MND, the Project does not exceed the Bay Area Air Quality Management District (BAAQMD) significance threshold for operational emissions. However, since the Project involves new construction and the operation of construction equipment, the potential construction related air pollutant emissions resulting from the Project were modeled and compared against the quantified thresholds of significance developed by the BAAQMD.

The BAAQMD construction thresholds address air pollutant emissions resulting from the operation of gasoline and diesel powered construction equipment, paving, general construction, the application of architectural coatings (paint), and the release of dust due to demolition and ground disturbing activities. The thresholds are typically measured by average daily emissions

rather than maximum daily emissions. The thresholds represent both a project specific and cumulative impact threshold. That is, if a project exceeds a given threshold at the project level it is also considered to result in a cumulative impact. Conversely, a project that remains within a given threshold is not considered to result in cumulative impacts.

According to the IS/MND, the Project does not have the potential to exceed BAAQMD's thresholds for Reactive Organic Gas (ROG) and oxides of nitrogen (NO_x) based on a maximum daily emissions level. On an average daily emissions threshold basis, the Project remains well under BAAQMD's threshold for ROG and NO_x. While the project remains well under BAAQMD's threshold for ROG and NO_x, Mitigation Measure AIR-1 is recommended to further reduce maximum daily ROG and NO_x emissions to a less-than-significant level. Additionally, Mitigation Measure AIR-1 is intended to address the prevention of fugitive dust.

Mitigation Measure AIR-1 requires a number of actions to minimize the release of gasoline and diesel constituents and fugitive dust during construction of the Project. The measures below are based on BAAQMD's Basic Construction Emission Control Measures:

1. An inventory of construction equipment and a schedule for equipment use shall be submitted to the City of Novato before issuance of demolition and/or grading permits. The inventory shall demonstrate that the off-road-vehicle fleet used for project construction meets the following requirements:
 - a. Through construction phasing and equipment scheduling, the project contractor shall limit equipment operation to a maximum of 6 hours per day for each piece of active equipment.
 - b. All rubber-tired dozers, tractors, loaders, and backhoes used at the site shall be Tier 3 engines and shall have Level 3 Diesel Particulate Filters.
 - c. All excavators and concrete/industrial saws used at the site shall be Tier 2 engines and shall have Level 3 Diesel Particulate Filters.
2. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
3. All haul trucks transporting soil, sand, or other loose material off site shall be covered.
4. 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.
5. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
6. 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.
7. 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 the California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
8. All construction equipment shall be maintained and properly tuned in accordance with manufacturer specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition before operation.
9. The construction contractor shall post a publicly visible sign at the project site with the telephone number and person to contact at the City of Novato regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Bay Area Air

Quality Management District's phone number shall be visible to ensure compliance with applicable regulations.

Based on the findings of the CEQA IS/MND and the implementation of Mitigation Measure AIR-1, incorporated herein by reference, the Project is hereby found to be consistent with EN Policy 34

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.

Facts in Support: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 35.

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: See facts presented for EN Policy 7. Based on the facts presented for EN Policy 7, the Project is hereby found to be consistent with EN Policy 37.

EN Policy 39 On-Site Recycling Areas. Require on-site areas for recycling in commercial/retail, office and multi-family residential developments as required by State law.

Facts in Support: The Project incorporates three trash and recycling storage areas proximal to all three buildings. Therefore, the Project is hereby found to be consistent with EN Policy 39.

SAFETY & NOISE

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

Facts in Support: Seismic hazards and soil stability are addressed in Section VI, Geology and Soils, of the CEQA IS/MND prepared for the Project. The geotechnical analysis contained in the IS/MND determined that the Project would likely be subject to strong earthquake shaking during its lifespan. However, development of the site would not present any geologic or seismic risks that are unique or unusual for the region. Application of standard construction/engineering practices and current regulatory standards for earthquake-resistant construction (i.e., the California Building Code [CBC], City ordinances and conditions of approval) would be adequate to address seismic hazards.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policies 1.

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. The normally acceptable standards for outdoor noise are summarized below [noise measurements in L_{dn}]:

SF TABLE 3

Residential Development	up to 60 dB
Transient Lodging: Motel and Hotel	up to 60 dB
School, Library, Church, Hospital and Nursing Home	up to 60 dB
Auditorium, Concert Hall, Amphitheater	up to 70 dB
Sports Arena, Outdoor Spectator Sports	up to 70 dB
Playgrounds, Neighborhood Parks, Open Space	up to 65 dB
Golf Course, Cemetery	up to 70 dB
Office Building, Business, Commercial & Professional	up to 70 dB
Industrial, Manufacturing, Utilities	up to 70 dB

Facts in Support: As described in Section XII, Noise, of the CEQA IS/MND, operational noise produced by the building facilities such as heating and air conditioning units (or other elements such as emergency generators) would not be significantly different under any of the proposed changes in uses associated with the General Plan land use designation (from BPO to LIO) and amendment to the Master Plan and Precise Development Plan. All such facilities would be subject to compliance with the City of Novato noise ordinance requirements and thus noise impacts would remain less than significant.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 37.

ECONOMIC DEVELOPMENT & FISCAL VITALITY

EC Policy 2 Commercial Lands. The City should encourage the development of commercial lands primarily for economic activities that contribute to local employment and income.

Facts in Support: In addition to offices, current business growth in Novato includes small scale manufacturing, wholesaling and distribution operations, which are not allowed in the current Master Plan/Precise Development. The select list of uses proposed for the Master Plan amendment, which includes small scale manufacturing, wholesaling and distribution are intended to better serve and attract a wider range of companies that in turn are expected to increase local employment and income.

Based on the facts set forth above, the Project is hereby found to be consistent with SF Policy 2.

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 approved 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 despite the recent, multi-year drought in California. The Water District requested the Project comply with the District's water conservation ordinance. The District's water conservation ordinance addresses plumbing fixtures, plant selection, and irrigation features. The proposed land use change to LIO and the uses proposed in the master plan amendment are not expected to cause an increase in water demand associated with the approved Project.

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

COMMUNITY IDENTITY

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.

Facts in Support: The Project received a formal design approval from the City's Design Review Commission on April 6, 2016, wherein the Commission found, in part, that the Project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

Based on the facts set forth above, the Project is hereby found to be consistent with CI Policy 1.

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

Facts in Support: All utilities serving the Project will be placed underground.

Based on the fact set forth above, the Project is hereby found to be 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 would be primarily provided in three parking areas: 1) across the frontage of the Project adjacent to Hana Ranch Road, between the three buildings and along the Project site's easterly common boundary with the SMART rail line. These parking areas are relatively flat and include an integrated landscape plan including numerous tree and shrub plantings that are intended to both help obscure views of the parking facility from offsite locations and enhance the visual quality of the project via tree and plant colors seasonally.

Based on the facts set forth 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 features a variety outdoor spaces for business occupants and visitors. These areas are considered to be adequate and attractive inasmuch as they are well landscaped and in most instances incorporate pedestrian pathways for circulation and enjoyment by the Project's occupants and visitors.

Based on the facts set forth 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 includes integrated pedestrian pathways throughout the site serving all three buildings. Additionally, the Project includes a new sidewalk along its Hanna Ranch Road frontage that can be accessed from an existing dedicated bike and pedestrian pathway that leads south to Hamilton Drive. These pedestrian paths provide adequate pedestrian circulation and enhance connectivity to existing pedestrian facilities.

Based on the facts set forth above, 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: No historic or archaeological resources were found during past operations on the site or are known to exist, based the results of intensive pedestrian survey, North West Information Center records search, and Native American Heritage Commission records search. The General Plan land use designation change from BPO to LIO and amendment to the Master Plan and Precise Development Plan would not affect historical or archaeological resources as the project site remains at the same location. However implementation of Mitigation Measure CUL-1 would ensure that impacts to archaeological resources would remain less than significant. Mitigation Measure CUL-1 requires that in the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the proposed project, all construction work occurring within 100 feet of the find shall immediately stop. The Federated Indians of Graton Rancheria Tribal Heritage Preservation Officer shall be notified and a qualified archaeologist, meeting the Secretary of the Interior's Professional Qualification Standards, will be retained to evaluate the significance of the find and determine whether or not additional study is warranted. Depending upon the significance of the find under CEQA (Section 15064.5(f); PRC 21082), the archaeologist may simply record the find and allow work to continue. If the discovery proves significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

Based on the archeological analyses performed for the Project and application of the noted mitigation measure, the Project is not anticipated to have an adverse effect on archeological resources. Accordingly, the Project is hereby found to be consistent with CI Policy 30.