

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1518

AN ORDINANCE OF THE CITY OF NOVATO ADOPTING THE AMENDMENT TO THE NOVATO CREEK LANDING MASTER PLAN TEXT IN ACCORDANCE WITH THE REQUIREMENTS OF THE CITY OF NOVATO MUNICIPAL CODE, CHAPTER XIX, AND THE CONSERVATION AND PLANNING LAW OF THE STATE OF CALIFORNIA FOR THE PAVILIONS AT WATERFALL TERRACE OFFICE PROJECT

THE CITY COUNCIL OF THE CITY OF NOVATO DOES ORDAIN AS FOLLOWS:

SECTION 1: The City Council approved the Novato Creek Landing Negative Declaration by adoption of a separate resolution for a much larger 55,625 square foot building on January 11, 2000 and the proposed project is substantially reduced in size from the project analyzed in the Mitigated Negative Declaration. No new potential environmental impacts have been identified and further environmental review is not required.

SECTION 2: The City Council makes the findings as required by Section 19.11.046.b.3 of the Novato Zoning Ordinance with respect to the amendment to the Novato Creek Landing Master Plan with specific reference to documentation in the staff analysis:

- 1. That the amendment is in conformance with the applicable goals and policies of the Novato General Plan.
- 2. That the amendment complies with the use limitations of the specific planned district to which it relates.
- 3. That the proposed development can be adequately, reasonably and conveniently served by public services, public conveniences, public utilities and public facilities.
- 4. That the development concepts are reasonably suited to the specific characteristics of the site and surrounding neighborhood.

SECTION 3: The Novato City Council hereby approves the Novato Creek Landing Master Plan Amendment described below:

- 1. Section II.E.2 Property Development Standards, subsection b.2 shall be amended as follows:
 - Lot 3: All yards shall have 20 foot setbacks, **except the east side yard shall have a minimum 10 foot setback.**

2. All remaining section of the Novato Creek Master Plan, approved by the City Council on September 6, 1985, shall remain in effect.
3. The approval granted herein shall not become effective until all appropriate fees billed by the City of Novato to the application account are paid in full in accordance with the City's Cost Based Fee System. Failure to pay said fees may result in the City withholding issuance of related building permits, certificate of occupancy, recordation of final maps or other entitlements.
4. Indemnity and Time Limitations:
 - a. The developer 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's decision to approve the application and related environmental documents 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 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, such as the related environmental documents, 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 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, phrase or clause 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 the *Novato Advance*, 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 the *Novato Advance* 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.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 8th day day of May, 2007, and was passed and adopted at a regular meeting of the Novato City Council on the ____ day of _____, 20__.

AYES: Councilmembers

NOES: Councilmembers

ABSTAIN: Councilmembers

ABSENT: Councilmembers

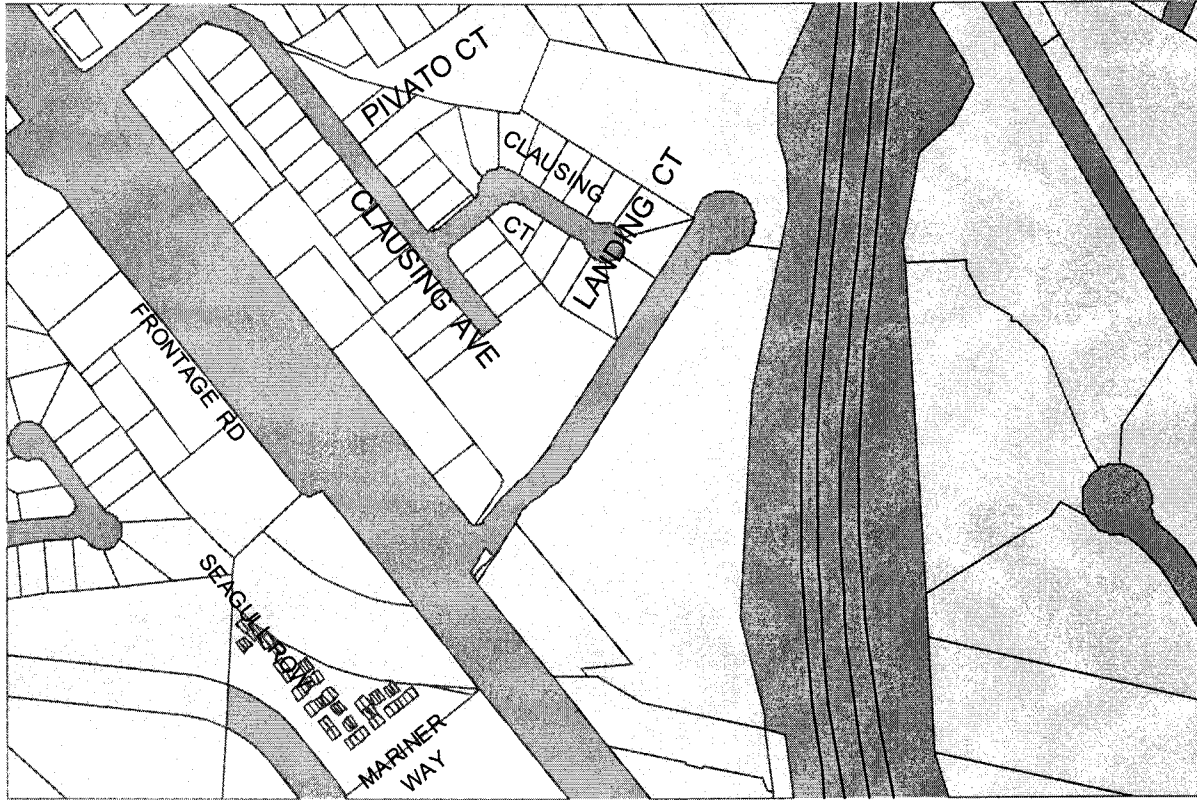
Mayor of the City of Novato

Attest:

City Clerk of the City of Novato

Approved as to form:

City Attorney of the City of Novato



NOVATO CREEK LANDING MASTER PLAN