



**To:** Honorable Mayor Schroder and City Council Members

**From:** Jim Jakel, Interim City Manager  
Veronica A. F. Nebb, Sr. Assistant City Attorney

**Subject:** Hold a Public Hearing to Consider and Possibly: Adopt A Resolution Rescinding Resolution 031-15, A Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 Submitting to the Voters an Election for a Referendum; A Resolution Rescinding Resolution No. 009-15 (Amending the General Plan), Resolution 008-15 (CEQA), and Resolution 010-15 (Tentative Map); and Introduction of an Ordinance Repealing Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way (Pine Meadow)

**Date:** February 29, 2016

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**Recommendation**

Adopt a Resolution Rescinding Resolution 031-15, Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duly authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters an Election for a Referendum to Resolution No. 009-15.

Adopt a Resolution: **A)** Rescinding Resolution No. 009-15, Amending the General Plan (Hidden Lakes Specific Area Plan) Designation from Open Space and Recreation, Permanent to Residential 0-6 Acre for A 25 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 10-02; **B)** Resolution 008-15, Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for a Development Project Consisting of: 1) General Plan Amendments to Amend the Hidden Lakes Specific Area Plan and to Amend Land Use Map 1 to Red-designate the Subject Property from Open Space and Recreation, Permanent to Residential 0-6 Units Per Acre; 2) a Zoning Map Amendment to Re-rezone the Subject Property from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7500 Square Feet per Dwelling Unit/Planned Unit Development Overlay) and Approve a Planned Unit Development Plan; 3) Vesting Tentative Map; and 4) Design Review, for Development of up to 99 Single Family Homes on a 25.9 Acre Parcel Located at 451 Vine Hill Way—APN 162-020-019 (Subject Property) – Pine Meadow Project 13 PLN-0029, Sub 9358 (Project); **C)** Resolution 010-15, A Resolution of the City Council of the City of Martinez Approving a Vesting Tentative Map for the Development of a Planned Unit Development with Up to 99 Single-Family Units (“Pine Meadow”) on an Approximate 25.9 Site Located at 451 Vine Hill Way (APN: 162-020-019) Sub #9358.

Introduce an Ordinance Repealing Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7,500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and a PUD Plan to Allow Development of 99 Single Family Homes.

### **Background**

On January 21, 2015, the City Council adopted Resolution No. 009-15 Amending the General Plan (Hidden Lakes Specific Area Plan) Designation from Open Space and Recreation, Permanent to Residential 0-6 Units/Gross Acre for a 25.9 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 13-02 and related Resolution No. 009-15, (adopting a General Plan Amendment), Resolution 008-15, (Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program), and Resolution 010-15, (Approving a Vesting Tentative Map), (the "Entitlements").

Thereafter, on February 17, 2015, prior to the effective date of the Resolution No. 009-15, a petition requesting a referendum against Resolution No. 009-15 was submitted to the City Elections Official. The Petition specifically requested that the City Council "either rescind its approval of said resolution or submit same to the voters of Martinez for their adoption or rejection at an election in accordance with state law".

Pursuant to California Elections Code sections 9239 and 9210, the referendum petition was accepted for filing, signatures verified and the Petition was submitted to the City Council for a decision regarding whether the City Council would repeal Resolution No. 009-15 or call an election of the Martinez voters relating thereto. At the City Council meeting of March 18, 2015, the City Council determined to call the election and adopted Resolution 031-15, A Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duly authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters an Election for a Referendum to Resolution No. 009-15.

### **Discussion**

Pursuant to Elections Code section 9241, once a referendum petition protesting the adoption of a resolution is submitted to the elections official and is signed by not less than 10 percent of the registered voters of the City, the effective date of the resolution that is the subject of the referendum petition is suspended and the City Council is required to reconsider the ordinance. The City Council is then presented with two options it can either: 1) entirely repeal the resolution in question; or 2) submit the resolution in question to the voters of for adoption or rejection.

The Elections Code does not specify a deadline by when the City Council must choose one of two options noted above. Therefore, the City Council has the power to take either action at any time after the certification of the signatures on the referendum petition. In addition, while the Elections Code sets forth a minimum number of days before an election may be called (88 days from the Council's calling of the election), it does not set a maximum number of days. This lack of a required maximum length of time to take action or call an election is due to the fact, that until the Council repeals such a resolution or an election is held, the resolution upon which the referendum was submitted is suspended and not in effect.

While the Council did on March 18, 2015, vote to call an election, there is no provision in the Elections Code prohibiting the Council from reversing this decision and repealing the resolution that was the subject of the referendum without the calling of an election.

On December 10, 2015, the City Clerk received a letter from Civic Martinez, LLC, the owner of the property at 451 Vine Hill Way, Martinez CA ("Property") and DeNova Home, Inc., the applicant for the Entitlements, requesting that the City repeal the Entitlements for the Pine Meadow project ("Project"). The owner and developer have clarified by subsequent letter that they no longer intend to proceed with development of the Project as originally proposed and that they are working on revised plans to be submitted sometime in the future. Staff has considered the request and noted that in the event that the owner and developer do not intend to proceed with the proposed project, rescinding the entitlements seems the prudent course of action since it will save the City the cost of the election relating to the Project which is being abandoned by the owner and developer.

If the City Council repeals the resolution or submits it to the voters and a majority of the voters voting on the resolution do not vote in favor of it, the same resolution may not again be enacted by the Council for a period of one year after the date of its repeal by the Council or disapproval by the voters. The substantive difference between the City Council repeal of the entitlements and the calling of the election is that if the City Council repeals the entitlements, the action is certain, the project cannot go forward as originally proposed at this time. If the election is called, the outcome is less certain and the voters could vote to either repeal Resolution No. 009-15 or permit the project to proceed as originally proposed. Neither action results in a permanent general plan designation for the property as the City Council in either case retains the right to amend the general plan land use designation for the Property in the future.

### **Fiscal Impact**

If the City Council proceeds with the election for the November 8, 2016, regular municipal election, the cost to the City is estimated to be, using the associated costs of the last election, \$23,229.84. If the City Council takes action to repeal the call of the election and the project entitlements, it will result in a cost savings of approximately the same amount.

**ALTERNATIVES:**

- I) Take no action. This will result in the City proceeding with the election on the Referendum of Resolution 009-15 amending the General Plan on November 8, 2016.
- II) Take action to rescind the call of the election and all of the project entitlements as described in the recommendation.

**Attachments**

- 1. Letter Requesting Repeal of Entitlements dated 12/10/2015.
- 2. Resolution 031-15, Resolution Calling and Giving Notice of the Holding of a General Municipal Election.
- 3. Resolution Rescinding Resolution 031-15 (Calling and Giving Notice of an Election).
- 4. Resolution Rescinding Resolution No. 009-15 (Amending the General Plan), Resolution 008-15 (CEQA), and 010-15 (Tentative Map).
- 5. Ordinance Repealing Ordinance 1383 C.S (Zoning Amendment).

**APPROVED BY:**



Interim City Manager

Civic Martinez, LLC

1500 WILLOW PASS COURT · CONCORD, CA 94520 · Phone (925) 685-0110 · Fax (925) 685-0660

December 10, 2015

Richard G. Hernandez, City Clerk  
City of Martinez  
525 Henrietta Street  
Martinez, CA 94533

**Re: Request for Rescission of Planning Approvals  
451 Vine Hill Way, Martinez**

Dear Mr. Hernandez:

This letter shall serve as property owner Civic Martinez, LLC and applicant DeNova Homes, Inc.'s collective request to agendize the rescission of all land use approvals granted by the City Council for that property at 451 Vine Hill Way, Martinez ("Property") pursuant to Resolutions 008-15, 009-15, and 010-15, at the next regularly scheduled City Council meeting on December 15, 2015.

Please confirm the hearing on this matter with the undersigned.

Very truly yours,



Dana C. Tsubota  
General Counsel

cc: Rob Braulik, City Manager  
Alan Shear, Assistant City Manager  
Mercy Cabral, Deputy City Clerk  
Mayor Rob Schroder  
Councilmember Mark Ross  
Councilmember Anamarie Avila Farias  
Councilmember Lara DeLaney  
Councilmember Debbie McKillop

RESOLUTION NO. 031-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 8, 2016 AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA TO CONDUCT SAID ELECTION; AND AUTHORIZING THE CITY CLERK OR HIS DULY AUTHORIZED OFFICERS AND AGENTS TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION SUBMITTING TO THE VOTERS AN ELECTION FOR A REFERENDUM TO RESOLUTION NO. 009-15

**WHEREAS**, the City of Martinez has received a certificate from the County of Contra Costa Registrar of Voters certifying the results of the Registrar's examination of the numbers of signatures and verification of the signatures affixed to certain petitions for a referendum measure to City of Martinez Resolution No. 009-15; and

**WHEREAS**, said certification shows that the initiative petitions were signed by not less than 10 percent of the voters of the City according to the report of registration by the county elections official to the Secretary of State pursuant to Elections Code §2187; and

**WHEREAS**, Elections Code §9241 provides that in those circumstances where the above-stated facts exist, as they do here, the City Council must either: (a) entirely repeal the ordinance; (b) submit the ordinance to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body; or (c) submit the ordinance to the voters at a special election called for that purpose occurring not less than 88 days after the order of the legislative body; and

**WHEREAS**, pursuant to the requirements of the Elections Code, an election should be called for the purposes of permitting the City's voters to determine whether the measure should or should not be adopted; and

**WHEREAS**, it is desirable that the election on this measure be consolidated with the general municipal election to be held on November 8, 2016; and

**WHEREAS**, it is desirable that the County Election Department of the County of Contra Costa canvass the returns of said election; and

**WHEREAS**, the Election Department for the County of Contra Costa requires payment by the City of a reasonable fee to perform the election service of holding the said election and this reasonable fee is related to and based upon the actual cost of conducting the election.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARTINEZ, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

1. The recitals stated above are true and correct.
2. That pursuant to Elections Code §924I there is called and ordered to be held in the City of Martinez, California, on Tuesday, on November 8 2016, an election on the said referendum.
3. That the City Council, pursuant to its right and authority as established in Elections Code §9241, does order submitted to the voters at the election specified above a ballot containing the measure attached hereto as Exhibit "A" and incorporated by this reference.
4. That pursuant to Elections Code §I0400, the Board of Supervisors of the County of Contra Costa is hereby requested to consent and agree to the consolidation of the election with any other election to be held on Tuesday, November 8, 2016.
5. That the City of Martinez, pursuant to its right and authority, does order submitted to the voters at the election the following question:

Shall Resolution No. 099-15, amending the City's General Plan to re-designate the land uses permitted on the 25.9 acre parcel located at 451 Vine Hill Way from Open Space and Recreation, Permanent to Residential 0-6 Units/Gross Acre be adopted?

Yes\_\_\_\_\_ / No\_\_\_\_\_ /

6. That the County Election Department is authorized to canvass the returns of said election.
7. That the City Clerk is hereby directed to issue instructions to the County Election Department to take any and all steps necessary for the holding of the election.

8. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Election Department of the County of Contra Costa.

9. That the polls for the election shall be open at 7:00 a.m. of the date of the election and shall remain open continuously from that time until 8:00 p.m. of the same day, when the polls shall be closed, except as provided in §14401 of the Elections Code.

10. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

11. That notice of the time and place of holding the election is hereby given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

12. That the City Clerk shall certify to the passage and adoption of this Resolution and file it with the City's original resolutions.

13. That the provisions of Elections Code §9219 and §9220 shall apply.

14. The City Clerk is directed to transmit to the City Attorney a copy of the measure and the City Attorney shall prepare an impartial analysis thereof consistent with applicable law.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 18, day of March, 2015, by the following vote:

AYES: Councilmembers AnaMarie Avila Farias, Lara DeLaney, Debbie M<sup>c</sup>Killop and Vice Mayor Ross

NOES: None

ABSENT: Mayor Rob Schroder



*Richard G. Hernandez*  
RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

**RESOLUTION -16**

**RESCINDING RESOLUTION NO. 031-15, A RESOLUTION CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD NOVEMBER 8, 2016 AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA TO CONDUCT SAID ELECTION; AND AUTHORIZING THE CITY CLERK OR HIS DULY AUTHORIZED OFFICERS AND AGENTS TO CARRY OUT ALL THE NECESSARY PROCEDURES FOR SAID ELECTION SUBMITTING TO THE VOTERS AN ELECTION FOR A REFERENDUM TO RESOLUTION NO. 009-15**

**WHEREAS**, on October 4, 2013, DeNova Homes (“the applicant”) filed an application requesting the following approvals on a 25.9 acre parcel located at 451 Vine Hill Way (the “Property”):

- A. A General Plan Amendment to re-designate the Property from Open Space and Recreation, Permanent to Residential 0-6 units per acre, and related text amendments; and
- B. Re-Zoning the entire 25.9 acre area of the Property from “M-OS/RF (Mixed Use Open Space Recreational Facilities)” to “R-7.5/PUD overlay (Single Family Residential, minimum 7,500 square feet per dwelling unit/Planned Unit Development Overlay)”, and a Planned Unit Development Plan; and
- C. A Vesting Tentative Map for 99 single family lots on the Property
- D. Design Review for the proposed 99 homes; (collectively, the “Project”)

**WHEREAS**, the City prepared an Initial Study for the Project, which analyzed the environmental effects of the Project and on the basis thereof prepared a Mitigated Negative Declaration (“MND”) in compliance with the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, on October 28, 2014, November 12, 2014, and January 6, 2015, the Planning Commission held duly noticed public hearings on the Project and adopted resolutions recommending that the City Council approve the MND and the Project; and

**WHEREAS**, on December 3, 2014 and January 21, 2015, the City Council held duly noticed public hearings on the Project; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 008-15, Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for a Development Project Consisting of: 1) General Plan Amendments to Amend the Hidden Lakes Specific Area Plan and to Amend Land Use Map 1 to Re-designate the Subject Property from Open Space and Recreation, Permanent to Residential 0-6 Units Per Acre; 2) a Zoning Map Amendment to Re-zone the Subject Property from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7500 Square Feet per Dwelling Unit/Planned Unit Development Overlay) and Approve a Planned Unit Development Plan; 3) Vesting Tentative Map; and 4) Design Review, for Development of up to 99 Single Family Homes on a 25.9 Acre Parcel Located at 451 Vine Hill Way—APN 162-020-019 (Subject Property) – Pine Meadow Project 13 PLN-0029, Sub 9358 (Project); and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution No. 009-15, Amending the General Plan (Hidden Lakes Specific Area Plan) Designation from Open Space and Recreation, Permanent to Residential 0-6 Acre for A 25 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 10-02; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 010-15, A Resolution of the City Council of the City of Martinez Approving a Vesting Tentative Map for the Development of a Planned Unit Development with Up to 99 Single-Family Units (“Pine Meadow”) on an Approximate 25.9 Site Located at 451 Vine Hill Way (APN: 162-020-019) Sub #9358; and

**WHEREAS**, on January 21, 2015 the City Council did introduce and on February 4, 2015 did adopt Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7,500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and a PUD Plan to Allow Development of 99 Single Family Homes; and

**WHEREAS**, on February 17, 2015, prior to the effective date of the Resolution No. 009-15, a petition requesting a referendum against Resolution No. 009-15 was submitted to the City Elections Official (the “Petition”). The Petition specifically requested that the City Council “either rescind its approval of said resolution or submit same to the voters of Martinez for their adoption or rejection at an election in accordance with state law”; and

**WHEREAS**, pursuant to California Elections Code sections 9239 and 9210, the Petition was accepted for filing, signatures verified and was submitted to the City Council for a decision regarding whether the City Council would repeal Resolution No. 009-15 or call an election of the Martinez voters relating thereto on March 18, 2015; and

**WHEREAS**, at the City Council meeting of March 18, 2015, the City Council determined to call an election and adopted Resolution 031-15, A Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duly authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters an Election for a Referendum to Resolution No. 009-15; and

**WHEREAS**, on December 10, 2015, the City Clerk received a letter from Civic Martinez, LLC, the owner of the Property and DeNova Home, Inc., the applicant for the Project, requesting that the City repeal the entitlements for the Project. The owner and developer have clarified by subsequent letter that they no longer intend to proceed with development of the Project as originally proposed and that they are working on revised plans to be submitted sometime in the future; and

**WHEREAS**, if the City Council proceeds with the election for the November 8, 2016, regular municipal election, the cost to the City is estimated to be, using the associated costs of the last election, \$23,229.84; and

**WHEREAS**, notice describing the City Council public hearing on the proposed rescission of the entitlements for the Project and the rescission of Resolution 31-15 calling the election on the Petition, were sent to all affected property owners within ¼ mile of the boundaries of the Property, all public agencies potentially serving the Project or having some oversight of the Project's construction, and all persons requesting notice and published in the Martinez News Gazette, a newspaper of general circulation, on February 28, 2016; and

**WHEREAS**, the City Council has determined it is desirable to avoid the costs of an election that is no longer necessary; and

**WHEREAS**, the Record of Proceedings ("Record") upon which the City Council bases its decision includes, but is not limited to: (1) the Mitigated Negative Declaration/Initial Study ("MND") and the appendices and technical reports cited in and/or relied upon in preparing the MND; (2) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the MND, the Project and the Petition; (3) the evidence, facts, findings and other determinations set forth in the staff report for this action and this resolution; (4) the General Plan and its related EIR and technical studies and the Martinez Municipal Code; (5) all designs, plans, studies, data, and correspondence submitted to the City in connection with the MND, the Project and the Petition; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the MND, the Project and the Petition; (7) all other matters of common knowledge to the City, including, but not limited to, City, state and federal law, policies, rules, regulations, reports, records and projections related to the matters set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** the Martinez City Council hereby rescinds Resolution 031-15, a Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duty Authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters An Election For a Referendum to Resolution No. 009-15.

\* \* \* \* \*

**I HEREBY CERTIFY** the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a meeting of said Council held on the 9th, day of March, 2016, by the following vote:

AYES:

NOS:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

**RESOLUTION NO. -16**

**RESCINDING: A) RESOLUTION NO. 009-15, AMENDING THE GENERAL PLAN (HIDDEN LAKES SPECIFIC AREA PLAN) DESIGNATION FROM OPEN SPACE AND RECREATION, PERMANENT TO RESIDENTIAL 0-6 ACRE FOR A 25 ACRE PARCEL AND TEXT AMENDMENT TO DELETE LANGUAGE PERTAINING TO GOLF COURSE USE ON THE PROPERTY LOCATED AT 451 VINE HILL WAY (PINE MEADOW) GPA 10-02; B) RESOLUTION NO. 008-15, ADOPTING A MITIGATED NEGATIVE DECLARATION AND A MITIGATION AND MONITORING AND REPORTING PROGRAM PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR A DEVELOPMENT PROJECT CONSISTING OF: 1) GENERAL PLAN AMENDMENTS TO AMEND THE HIDDEN LAKES SPECIFIC AREA PLAN AND TO AMEND LAND USE MAP 1 TO RED-DESIGNATE THE SUBJECT PROPERTY FROM OPEN SPACE AND RECREATION, PERMANENT TO RESIDENTIAL 0-6 UNITS PER ACRE; 2) A ZONING MAP AMENDMENT TO RE-ZONE THE SUBJECT PROPERTY FROM M-OS/RF (MIXED USE OPEN SPACE RECREATION) TO A COMBINATION OF R-7.5/PUD OVERLAY (SINGLE FAMILY RESIDENTIAL: MINIMUM 7500 SQUARE FEET PER DWELLING UNIT/PLANNED UNIT DEVELOPMENT OVERLAY) AND APPROVE A PLANNED UNIT DEVELOPMENT PLAN; 3) VESTING TENTATIVE MAP; AND 4) DESIGN REVIEW, FOR DEVELOPMENT OF UP TO 99 SINGLE FAMILY HOMES ON A 25.9 ACRE PARCEL LOCATED AT 451 VINE HILL WAY—APN 162-020-019 (SUBJECT PROPERTY) – PINE MEADOW PROJECT 13 PLN-0029, SUB 9358 (PROJECT); C) RESOLUTION NO. 010-15, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARTINEZ APPROVING A VESTING TENTATIVE MAP FOR THE DEVELOPMENT OF A PLANNED UNIT DEVELOPMENT WITH UP TO 99 SINGLE-FAMILY UNITS (“PINE MEADOW”) ON AN APPROXIMATE 25.9 SITE LOCATED AT 451 VINE HILL WAY (APN: 162-020-019) SUB #9358**

**WHEREAS**, on October 4, 2013, DeNova Homes (“the applicant”) filed an application requesting the following approvals on a 25.9 acre parcel located at 451 Vine Hill Way (the “Property”):

- A. A General Plan Amendment to re-designate the Property from Open Space and Recreation, Permanent to Residential 0-6 units per acre, and related text amendments; and
- B. Re-Zoning the entire 25.9 acre area of the Property from “M-OS/RF (Mixed Use Open Space Recreational Facilities)” to “R-7.5/PUD overlay (Single Family Residential, minimum 7,500 square feet per dwelling unit/Planned Unit Development Overlay)”, and a Planned Unit Development Plan; and
- C. A Vesting Tentative Map for 99 single family lots on the Property
- D. Design Review for the proposed 99 homes; (collectively, the “Project”)

**WHEREAS**, the City prepared an Initial Study for the Project, which analyzed the environmental effects of the Project and on the basis thereof prepared a Mitigated Negative Declaration (“MND”) in compliance with the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, on October 28, 2014, November 12, 2014, and January 6, 2015, the Planning Commission held duly noticed public hearings on the Project and adopted resolutions recommending that the City Council approve the MND and the Project; and

**WHEREAS**, on December 3, 2014 and January 21, 2015, the City Council held duly noticed public hearings on the Project; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 008-15, Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for a Development Project Consisting of: 1) General Plan Amendments to Amend the Hidden Lakes Specific Area Plan and to Amend Land Use Map 1 to Re-designate the Subject Property from Open Space and Recreation, Permanent to Residential 0-6 Units Per Acre; 2) a Zoning Map Amendment to Re-zone the Subject Property from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7500 Square Feet per Dwelling Unit/Planned Unit Development Overlay) and Approve a Planned Unit Development Plan; 3) Vesting Tentative Map; and 4) Design Review, for Development of up to 99 Single Family Homes on a 25.9 Acre Parcel Located at 451 Vine Hill Way—APN 162-020-019 (Subject Property) – Pine Meadow Project 13 PLN-0029, Sub 9358 (Project); and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution No. 009-15, Amending the General Plan (Hidden Lakes Specific Area Plan) Designation from Open Space and Recreation, Permanent to Residential 0-6 Acre for A 25 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 10-02; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 010-15, A Resolution of the City Council of the City of Martinez Approving a Vesting Tentative Map for the Development of a Planned Unit Development with Up to 99 Single-Family Units (“Pine Meadow”) on an Approximate 25.9 Site Located at 451 Vine Hill Way (APN: 162-020-019) Sub #9358; and

**WHEREAS**, on January 21, 2015 the City Council did introduce and on February 4, 2015 did adopt Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7,500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and a PUD Plan to Allow Development of 99 Single Family Homes; and

**WHEREAS**, on February 17, 2015, prior to the effective date of the Resolution No. 009-15, a petition requesting a referendum against Resolution No. 009-15 was submitted to the City Elections Official (the “Petition”). The Petition specifically requested that the City Council “either rescind its approval of said resolution or submit same to the voters of Martinez for their adoption or rejection at an election in accordance with state law”; and

**WHEREAS**, pursuant to California Elections Code sections 9239 and 9210, the Petition was accepted for filing, signatures verified and was submitted to the City Council for a decision regarding whether the City Council would repeal Resolution No. 009-15 or call an election of the Martinez voters relating thereto on March 18, 2015; and

**WHEREAS**, at the City Council meeting of March 18, 2015, the City Council determined to call an election and adopted Resolution 031-15, A Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duly authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters an Election for a Referendum to Resolution No. 009-15; and

**WHEREAS**, on December 10, 2015, the City Clerk received a letter from Civic Martinez, LLC, the owner of the Property and DeNova Home, Inc., the applicant for the Project, requesting that the City repeal the entitlements for the Project. The owner and developer have clarified by subsequent letter that they no longer intend to proceed with development of the Project as originally proposed and that they are working on revised plans to be submitted sometime in the future; and

**WHEREAS**, if the City Council proceeds with the election for the November 8, 2016, regular municipal election, the cost to the City is estimated to be, using the associated costs of the last election, \$23,229.84; and

**WHEREAS**, notice describing the City Council public hearing on the proposed rescission of the entitlements for the Project and the rescission of Resolution 31-15 calling the election on the Petition, were sent to all affected property owners within ¼ mile of the boundaries of the Property, all public agencies potentially serving the Project or having some oversight of the Project's construction, and all persons requesting notice and published in the Martinez News Gazette, a newspaper of general circulation, on February 28, 2016; and

**WHEREAS**, the City Council has determined it is desirable to avoid the costs of an election that is no longer necessary; and

**WHEREAS**, the Record of Proceedings ("Record") upon which the City Council bases its decision includes, but is not limited to: (1) the Mitigated Negative Declaration/Initial Study ("MND") and the appendices and technical reports cited in and/or relied upon in preparing the MND; (2) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the MND, the Project and the Petition; (3) the evidence, facts, findings and other determinations set forth in the staff report for this action and this resolution; (4) the General Plan and its related EIR and technical studies and the Martinez Municipal Code; (5) all designs, plans, studies, data, and correspondence submitted to the City in connection with the MND, the Project and the Petition; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the MND, the Project and the Petition; (7) all other matters of common knowledge to the City, including, but not limited to, City, state and federal law, policies, rules, regulations, reports, records and projections related to the matters set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** the Martinez City Council hereby rescinds:

- A) Resolution No. 009-15, Amending the General Plan (Hidden Lakes Specific Area Plan) Designation From Open Space and Recreation, Permanent to Residential 0-6 Acre For A 25 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 10-02; and

- B) Resolution 008-15, Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for a Development Project Consisting of: 1) General Plan Amendments to Amend the Hidden Lakes Specific Area Plan and to Amend Land Use Map 1 to Red-Designate the Subject Property From Open Space and Recreation, Permanent to Residential 0-6 Units Per Acre; 2) A Zoning Map Amendment to Re-Rezone the Subject Property from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and Approve a Planned Unit Development Plan; 3) Vesting Tentative Map; and 4) Design Review, for Development of Up to 99 Single Family Homes on a 25.9 Acre Parcel Located at 451 Vine Hill Way—APN 162-020-019 (Subject Property) – Pine Meadow Project 13 PLN-0029, Sub 9358 (Project); and
  
- C) Resolution 010-15, a Resolution of the City Council of the City of Martinez Approving a Vesting Tentative Map for the Development of a Planned Unit Development With up to 99 Single-Family Units (“Pine Meadow”) on an Approximate 25.9 Site Located at 451 Vine Hill Way (APN: 162-020-019) Sub #9358.

\* \* \* \* \*

**I HEREBY CERTIFY** the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a meeting of said Council held on the 9th, day of March, 2016, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ

**ORDINANCE NO. C.S.**

**REPEALING ORDINANCE 1383 C.S. REZONING A 25.9 ACRE PROPERTY LOCATED AT 451 VINE HILL WAY FROM M-OS/RF (MIXED USE OPEN SPACE RECREATION) TO A COMBINATION OF R-7.5/PUD OVERLAY (SINGLE FAMILY RESIDENTIAL: MINIMUM 7,500 SQUARE FEET PER DWELLING UNIT/PLANNED UNIT DEVELOPMENT OVERLAY) AND A PUD PLAN TO ALLOW DEVELOPMENT OF 99 SINGLE FAMILY HOMES AS REQUESTED IN THE PETITION TO THE RELATING TO A REFERENDUM AGAINST THE RESOLUTION PASSED BY THE CITY COUNCIL RESOLUTION NO. 009-15 SUBMITTED FEBRUARY 17, 2015**

**WHEREAS**, on October 4, 2013, DeNova Homes (“the applicant”) filed an application requesting the following approvals on a 25.9 acre parcel located at 451 Vine Hill Way (the “Property”):

- A. A General Plan Amendment to re-designate the Property from Open Space and Recreation, Permanent to Residential 0-6 units per acre, and related text amendments; and
- B. Re-Zoning the entire 25.9 acre area of the Property from “M-OS/RF (Mixed Use Open Space Recreational Facilities)” to “R-7.5/PUD overlay (Single Family Residential, minimum 7,500 square feet per dwelling unit/Planned Unit Development Overlay)”, and a Planned Unit Development Plan; and
- C. A Vesting Tentative Map for 99 single family lots on the Property
- D. Design Review for the proposed 99 homes; (collectively, the “Project”)

**WHEREAS**, the City prepared an Initial Study for the Project, which analyzed the environmental effects of the Project and on the basis thereof prepared a Mitigated Negative Declaration (“MND”) in compliance with the California Environmental Quality Act (“CEQA”); and

**WHEREAS**, on October 28, 2014, November 12, 2014, and January 6, 2015, the Planning Commission held duly noticed public hearings on the Project and adopted resolutions recommending that the City Council approve the MND and the Project; and

**WHEREAS**, on December 3, 2014 and January 21, 2015, the City Council held duly noticed public hearings on the Project; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 008-15, Adopting a Mitigated Negative Declaration and a Mitigation and Monitoring and Reporting Program Pursuant to the California Environmental Quality Act for a Development Project Consisting of: 1) General Plan Amendments to Amend the Hidden Lakes Specific Area Plan and to Amend Land Use Map 1 to Re-designate the Subject Property from Open Space and Recreation, Permanent to Residential 0-6 Units Per Acre; 2) a Zoning Map Amendment to Re-rezone the Subject Property from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7500 Square Feet per Dwelling Unit/Planned Unit Development Overlay) and Approve a Planned Unit Development Plan; 3) Vesting Tentative Map; and 4) Design Review, for Development of up to 99 Single Family Homes on a 25.9 Acre Parcel Located at 451 Vine Hill Way—APN 162-020-019 (Subject Property) – Pine Meadow Project 13 PLN-0029, Sub 9358 (Project); and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution No. 009-15, Amending the General Plan (Hidden Lakes Specific Area Plan) Designation from Open Space and Recreation, Permanent to Residential 0-6 Acre for A 25 Acre Parcel and Text Amendment to Delete Language Pertaining to Golf Course Use on the Property Located at 451 Vine Hill Way (Pine Meadow) GPA 10-02; and

**WHEREAS**, on January 21, 2015 the City Council did adopt Resolution 010-15, A Resolution of the City Council of the City of Martinez Approving a Vesting Tentative Map for the Development of a Planned Unit Development with Up to 99 Single-Family Units (“Pine Meadow”) on an Approximate 25.9 Site Located at 451 Vine Hill Way (APN: 162-020-019) Sub #9358; and

**WHEREAS**, on January 21, 2015 the City Council did introduce and on February 4, 2015 did adopt Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7,500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and a PUD Plan to Allow Development of 99 Single Family Homes; and

**WHEREAS**, on February 17, 2015, prior to the effective date of the Resolution No. 009-15, a petition requesting a referendum against Resolution No. 009-15 was submitted to the City Elections Official (the “Petition”). The Petition specifically requested that the City Council “either rescind its approval of said resolution or submit same to the voters of Martinez for their adoption or rejection at an election in accordance with state law”; and

**WHEREAS**, pursuant to California Elections Code sections 9239 and 9210, the Petition was accepted for filing, signatures verified and was submitted to the City Council for a decision regarding whether the City Council would repeal Resolution No. 009-15 or call an election of the Martinez voters relating thereto on March 18, 2015; and

**WHEREAS**, at the City Council meeting of March 18, 2015, the City Council determined to call an election and adopted Resolution 031-15, A Resolution Calling and Giving Notice of the Holding of a General Municipal Election to be Held November 8, 2016 and Requesting the Board of Supervisors of the County of Contra Costa to Conduct Said Election; and Authorizing the City Clerk or His Duly authorized Officers and Agents to Carry Out All the Necessary Procedures for Said Election Submitting to the Voters an Election for a Referendum to Resolution No. 009-15; and

**WHEREAS**, on December 10, 2015, the City Clerk received a letter from Civic Martinez, LLC, the owner of the Property and DeNova Home, Inc., the applicant for the Project, requesting that the City repeal the entitlements for the Project. The owner and developer have clarified by subsequent letter that they no longer intend to proceed with development of the Project as originally proposed and that they are working on revised plans to be submitted sometime in the future; and

**WHEREAS**, if the City Council proceeds with the election for the November 8, 2016, regular municipal election, the cost to the City is estimated to be, using the associated costs of the last election, \$23,229.84; and

**WHEREAS**, notice describing the City Council public hearing on the proposed rescission of the entitlements for the Project and the rescission of Resolution 31-15 calling the election on the Petition, were sent to all affected property owners within ¼ mile of the boundaries of the Property, all public agencies potentially serving the Project or having some oversight of the Project's construction, and all persons requesting notice and published in the Martinez News Gazette, a newspaper of general circulation, on February 28, 2016; and

**WHEREAS**, the City Council has determined it is desirable to avoid the costs of an election that is no longer necessary; and

**WHEREAS**, the Record of Proceedings ("Record") upon which the City Council bases its decision includes, but is not limited to: (1) the Mitigated Negative Declaration/Initial Study ("MND") and the appendices and technical reports cited in and/or relied upon in preparing the MND; (2) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the MND, the Project and the Petition; (3) the evidence, facts, findings and other determinations set forth in the staff report for this action and this resolution; (4) the General Plan and its related EIR and technical studies and the Martinez Municipal Code; (5) all designs, plans, studies, data, and correspondence submitted to the City in connection with the MND, the Project and the Petition; (6) all documentary and oral evidence received at public workshops, meetings, and hearings or submitted to the City during the comment period relating to the MND, the Project and the Petition; (7) all other matters of common knowledge to the City, including, but not limited to, City, state and federal law, policies, rules, regulations, reports, records and projections related to the matters set forth herein.

**NOW, THEREFORE**, the City Council of the City of Martinez does ordain as follows:

**SECTION I.** The City Council of the City of Martinez hereby repeals Ordinance 1383 C.S. Rezoning a 25.9 Acre Property Located at 451 Vine Hill Way from M-OS/RF (Mixed Use Open Space Recreation) to a Combination of R-7.5/PUD Overlay (Single Family Residential: Minimum 7,500 Square Feet Per Dwelling Unit/Planned Unit Development Overlay) and a PUD Plan to Allow Development of 99 Single Family Homes.

**SECTION II. 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 this 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, phrase or clauses be declared unconstitutional on their face or as applied.

**SECTION III. Effective date.** This ordinance shall become effective 30 days after the date of adoption.

**SECTION IV. Posting.** The City Clerk shall cause this ordinance to be published within fifteen days after its adoption, at least once, with the names of those City Council members voting for or against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: \_\_\_\_\_  
Rob Schroder, Mayor

ATTEST: \_\_\_\_\_  
Deputy City Clerk

\* \* \* \* \*

**I HEREBY CERTIFY** the foregoing ordinance was duly and regularly introduced at the Meeting of the City Council of the City of Martinez, held on the 9th day of March, 2016, and duly passed and adopted by said City Council at a Regular Meeting of the City Council of the City of Martinez held on the \_\_\_\_ day of March, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ