



THE CITY OF
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CALIFORNIA

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DESIGN REVIEW COMMISSION STAFF REPORT

MEETING

DATE: September 18, 2019

STAFF: Brett Walker, Senior Planner
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SUBJECT: **BAHIA RIVER VIEW**
FILE: P2017-023; DESIGN REVIEW
APN 143-151-06; BAHIA DRIVE, 400 FEET EAST OF CERRO CREST
DRIVE AND WEST OF TOPAZ DRIVE

REQUESTED ACTION

Conduct a design review hearing and provide a recommendation to the Planning Commission and City Council regarding site design aspects for a proposed 5-lot residential subdivision of a 6.87-acre site located on Bahia Drive; Assessor Parcel Number (APN) 143-151-06.

SITE DESCRIPTION

The vacant project site is located on the southerly side of Bahia Drive, east of Cerro Crest Drive, west of Topaz Drive, and across from the Rush Creek Open Space Preserve. The site is currently vacant, but the site was previously graded, resulting in stepped pads along the Bahia Drive frontage. Single-family residential uses are located at lower elevations east and south of the site, and City-owned open space adjoins the site to the west.

The site is located less than one mile west of the Petaluma River. Elevations at the site range from approximately 20 feet to over 150 feet above sea level, and generally descend from north/northwest towards the south/southeast. Much of the site has slopes over 25 percent, which is illustrated on Sheet TM-3 included in the [Project Plan Set](#). Approximately 1.5 acres of the site has average slopes less than 10 percent. Numerous trees are located on proposed Lot 1, mainly consisting of oak trees, with bay laurels, madrones, and one pine tree species intermixed. The rest of the site is covered with grasses interspersed with trees.

PROJECT DESCRIPTION

The applicant, Bahia Lands, LLC, is proposing a five lot subdivision to create lots that range from 0.36 to 4.11 acres (15,579 to 179,187 square feet) in size. The applicant is not proposing to build dwellings, only to subdivide the property in order to sell lots. When residential dwellings are proposed in the future, design review would be required for those buildings pursuant to Novato's Hillside and Ridgeline Protection Ordinance since the proposed lots would each have an average slope over 10%. The lots would have access onto Bahia Drive, a public street. Sewer and water would be extended on this portion of Bahia Drive to serve the five lots.

Figure 1. Aerial view of site with approximate property lines



BACKGROUND

Applicant/Owner:	Bahia Lands, LLC
Assessor's Parcel No.:	143-151-06
Property Size:	6.87 acres
General Plan Designation:	Low Density Residential (R1)
Current Zoning:	Planned District (PD)
Proposed Zoning:	Low Density Residential (R1)
Existing Use:	Undeveloped
Proposed:	5-lot subdivision
Adjacent Zoning:	Planned District (PD)
Adjacent Use:	North: Marin County Rush Creek Open Space West: City of Novato open space South: Single-family residential East: Single-family residential

DEVELOPMENT ENTITLEMENTS

The applicant has submitted zoning map amendment (rezone), tentative subdivision map, and design review applications. The following city approvals are required for the proposed project:

- Zoning Map Amendment: The project site is currently zoned Planned District (PD). The applicant is requesting that the site be rezoned to Low Density Residential, 10,000-square-foot minimum lot size (R1-10).
- Tentative Subdivision Map: A tentative map is required to create the proposed five lots.
- Design Review: Since the site has average slopes over 10 percent and a land division is proposed, design review is required pursuant to the Hillside and Ridgeline Protection Ordinance.

HOUSING ACCOUNTABILITY ACT

The City is subject to California Housing Accountability Act (HAA) compliance, codified in California Government Code §65589.5, relating to the review of new housing projects. In summary, the HAA specifies timeframes to take action on qualified housing proposals, imposes limitations on an agency's ability to deny housing projects or reduce density, and prohibits the application of subjective criteria. Of relevance to the Design Review Commission are the prohibitions on reducing density and application of subjective criteria.

It is important for the Design Review Commission and interested residents to understand there are limitations on what can and cannot be imposed on housing developments subject to the HAA and that it may not be possible to compel project modifications to meet subjective design preferences, as has been the traditional practice in Novato. Nevertheless, the Design Review Commission and residents are encouraged to offer comments on design related items that would improve the appearance and function of the project regardless of whether or not modifications can be required – a developer can voluntarily agree to make project changes.

ENVIRONMENTAL ASSESSMENT

An environmental assessment is not required for a preliminary project review, such as a Design Review Commission hearing for a site design recommendation. Prior to Planning Commission and City Council hearings, the City will determine and complete the necessary level of environmental review pursuant to the California Environmental Quality Act (CEQA).

NEIGHBORHOOD MEETING

A neighborhood meeting was held on April 24, 2017, 6:30 PM, at the Bahia Clubhouse. Approximately 40 persons attended the meeting. A summary of neighborhood comments is provided below:

- Homes will disrupt views, including when entering the subdivision from Bahia Drive;
- Two story homes will block views. Lots are large enough for one story homes. Homes and heights will ruin our views;

- Will the project join the Bahia HOA?;
- Will the proposed landscaping be deed restricted so it is not removed or replaced with other landscaping types in the future?;
- Concerns regarding the projects impact on wildlife;
- The homes are architecturally too different from the “cape code” style of existing homes;
- Concerns regarding wildfire risks;
- Drainage issues at the bottom of the hill;
- Will we see lights from the houses?;
- The houses don’t look affordable;
- Why are you proposing seven lots, instead of four;
- The homes are beautiful;

Comments from surrounding residents of the Bahia neighborhood:

Residents of the Bahia neighborhood raised concerns about the height and mass of the proposed residences regarding views from the neighborhood below towards the north/northwest and from Bahia Drive and Rush Creek Open Space towards the Petaluma River and adjacent tidal flats. Privacy for the residents living below the site is a concern of residents living along Topaz and Malobar drives. Residents voiced concerns of loss of privacy in their back yards, stating that landscaping should be designed to obscure views from the proposed residences and outdoor living areas to the residences below.

DESIGN REVIEW COMMISSION WORKSHOP

The project was presented to the Design Review Commission at a workshop on July 19, 2017. The meeting minutes from the workshop, which include commissioner and public comments, are available here: [July 19, 2017, DRC Meeting Minutes](#). In summary, commissioners made comments regarding the number of homes proposed, the hillside ordinance and development standards, and location of the homes on the proposed lots. Subsequent to the DRC workshop, the applicant has revised the site plan, resulting in a reduction from 7 to 5 proposed lots.

STAFF ANALYSIS

The Design Review Commission should consider the proposal from the perspective of the following three design review findings, pursuant to Novato Municipal Code [Section 19.42.030.F](#). The project is also subject to the Hillside and Ridgeline Protection Ordinance, which has supplemental design review findings codified in Novato Municipal Code [Section 19.26.060](#). The Design Review Commission is tasked with reviewing the project for consistency with said findings and forwarding their recommendation to the Planning Commission and City Council. Planning staff has provided a discussion/analysis of the consistency of the project design with these findings, below.

The Novato General Plan and Novato Zoning Code include objective standards for the creation of lots and subsequent development of those lots. The following includes an analysis of the applicable policies and regulations for the proposed subdivision.

Design Review Finding No. 1: The design, layout, size, architectural features and general appearance of the proposed project is consistent with the general plan, and any applicable specific plan and with the development standards, design guidelines and all applicable provisions of this code, including this title {Zoning Code} and any approved master plan and precise development plan.

1996 General Plan

The 1996 Novato General Plan provides a framework of policies that were adopted to coordinate all major components of Novato's physical development. These policies serve as a basis to assess whether public and private development proposals are consistent with the General Plan. The project site is assigned the Low Density Residential (R1) land use designation. Single family dwellings at a density range of 1.1-5 units per acre are permitted in the R1 district. The proposed 5 lots is equal to 0.72 units per acre. An analysis of project consistency with individual General Plan policies is included in the Design Review Commission findings of this staff report, below.

The Design Review Commission should consider the design aspects in light of the design-related policies of the Novato General Plan listed below.

EN Policy 13 Views. Encourage protection of visual access to the San Pablo Bay Shoreline and the Petaluma River. EN Map 3, Scenic Resources.

EN Policy 27 Scenic Resources. Protect visual values on hillsides, ridgelines, and other scenic resources.

Discussion/Analysis: The lower portion of the project site is located within a Scenic Conservation Area as identified on General Plan Map EN 3, Scenic Resources. Accordingly, Novato Municipal Code Section 19.20.080 (Scenic Resource Protection) and Division 19.26 (Hillside and Ridgeline Protection) include objective design criteria applicable to the project that address the Scenic Conservation Area designation. Staff has reviewed the project against the applicable zoning standards and considers the proposed 5-lot subdivision to meet the objective design criteria. Based on this review, the subdivision is considered to be consistent with EN Policy 13 and EN Policy 27. For specific details supporting this position, refer to the staff report section below regarding consistency with the Novato Zoning Code.

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.

Discussion/Analysis: The proposed 5-lot subdivision has been reviewed for consistency with applicable objective design standards specified in the Novato Zoning Code, in particular those standards listed in the Hillside and Ridgeline Protection Ordinance. Compliance with these design standards is considered to represent consistency with CI Policy 1. Based on the subdivision design plans, the project is considered to comply with the applicable, objective standards of the Zoning Code. Accordingly, the proposed subdivision is considered to be consistent with CI Policy 1. For

specific details supporting this position, refer to the staff report section below regarding consistency with the Novato Zoning Code.

Design Review will be required in the future when development proposed on individual lots. The proposed subdivision is consistent with CI Policy 1.

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

Discussion/Analysis: The proposed parcels in the subdivision range in size from approximately 15,000 sq. ft. to 180,000 sq. ft. and are configured to provide sufficient level area to accommodate a single-family residence and reasonable front, side, and rear yard areas for landscaping and outdoor use customary to single-family residences. Based on this observation, the proposed subdivision is considered to be consistent with CI Policy 14.

The project does not currently contemplate the construction of new residences. As such, it is not possible to specifically assess the site design of a new residence for consistency with CI Policy 14. Nevertheless, Zoning Code development standards, including those detailed in the Hillside and Ridgeline Protection Ordinance, will ensure that adequate open areas are provided at the project site at the time residences are proposed for construction. In addition, maximum lot coverage, minimum setbacks, and limitations on developing on lands with average slopes over 25 percent will ensure future residences are consistent with CI Policy 14.

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

Discussion/Analysis: A sidewalk will be required along the south side of Bahia Drive, connecting to the existing sidewalk at Topaz Drive, consistent with CI Policy 15.

Novato Zoning Code

Low Density Residential Zoning District

The applicant is requesting the project site be rezoned from Planned District (PD) to Low Density Residential, 10,000-square-foot minimum lot size (R1-10), consistent with the Low Density Residential (R1) General Plan Land Use designation. Applicable development standards for the R1-10 zoning district are detailed on Novato Municipal Code Section 19.10.040, Table 2-6, and summarized in the Table 1, below.

Table 1. R1-10 General Development Standards

Zoning District	Lot Size			Minimum Setbacks			Max. Building Coverage	Max. Floor Area Ratio
	Area	Width	Depth	Front	Side	Rear		
R1-10	10,000	75	100	25	10	25	40	0.5*
Project Lots	15,579-179,187	100+	100+	25	10	25+	TBD*	TBD*

*The proposed project does not include the development of residential dwellings. Design review will be required when residences are proposed at the project site. Staff will review said homes at that time to ensure

consistency with the maximum building coverage and maximum floor area ratio. Maximum home size will be dictated by the Hillside and Ridgeline Protection Ordinance. In addition, the Hillside and Ridgeline Ordinance would apply a 25-foot height limit to a future residence.

Staff has review the proposed tentative subdivision map and determined that the project, as proposed, is consistent with the R1-10 general development standards related to lot configuration. Maximum building coverage, structure height, and floor area ratio (FAR) will be determined when design review applications are submitted for new residences on each individual lot.

Hillside and Ridgeline Protection Ordinance

Supplemental Design Review Findings

The following supplemental design review findings are required for sites with average slopes over 10 percent. A discussion and analysis of the Hillside Ordinance design criteria follows the four findings for the Commissioners consideration.

- A. The design, scale, massing, height and siting of development is compatible with the character and scale of the surrounding, developed neighborhood.
- B. The design and site layout of the hillside project is respective of and protects the natural environment to the maximum extent feasible.
- C. Site grading has been designed to be as minimal as possible to achieve sensitive hillside design, minimize tree removal, and provide safe site access and required parking.
- D. The hillside project is designed and sited to screen development, to the extent feasible, through clustering and/or avoiding of highly visible hillsides, ridgelines, and knolls.

The Hillside and Ridgeline Protection Ordinance (Hillside Ordinance), codified in NMC Division 19.26, includes regulations for the creation of lots through the subdivision process and development standards and limitations on the subsequent development of said lots. The Hillside Ordinance includes density reductions based on the average slopes of the existing, pre-development lot. Table 2, below, includes the reduction factors specific to the project site. The net acreage, based on the slope reduction factor for the site is 1.72 acres. The net density of the project is 2.9 units per acre, consistent with the allowable 1.1-5 units per acre prescribed for the Low Density Residential land use designation.

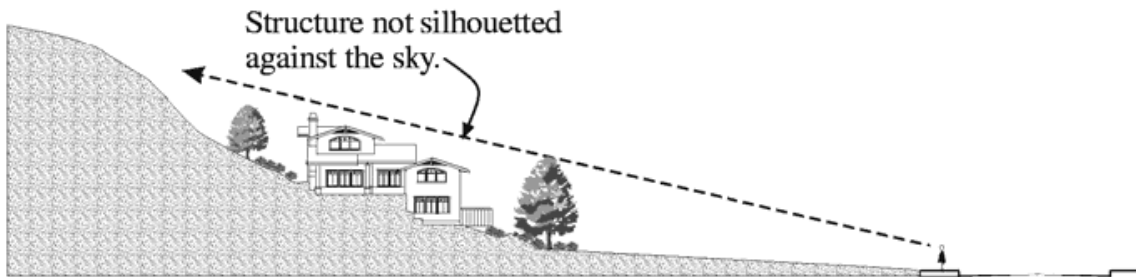
Table 2. Allowable Density and Floor Area Ratio based on site slope*

Land Use Designation	Average Slope Range	Percent Reduction in Allowable Units	Reduction Factor	Area (Acres)	Net Acres
Low Density Residential (R1)	0% to 10%	None	None	1.46	1.46
	10% to 25%	60%	0.4	0.64	0.26
	Greater than 25%	100%	0.0	4.77	0.0
	Total			6.87	1.72

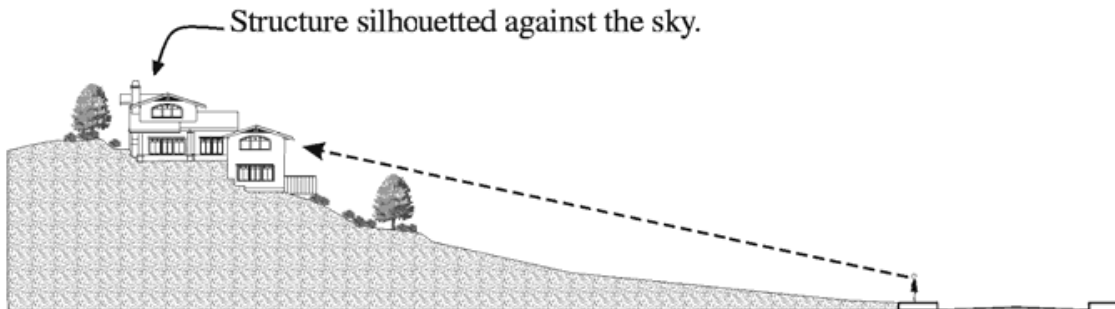
*Excerpt from Table 3-6 and Applicant’s Slope Analysis (see Sheet TM-3)

Ridgeline

Novato Municipal Code Section [19.26.050.J \(Siting and Height Limitations\)](#), includes regulations regarding the siting of structures and height of structures adjacent to ridgelines. The project site includes a ridgeline, identified as the 150-foot contour line near the westerly edge of proposed Lot 1. A residence adjacent to the identified ridgeline shall have a minimum 25 feet of vertical separation from the ridgeline, meaning that the future residence located on Lot 1 cannot have a roof peak greater than 125 feet above sea level. Plan Set Sheet A0.1 includes a site section that depicts a “potential building” on Lot 1 that has a roof peak at the 125-foot elevation. Additionally, the structure on Lot 1 shall not be placed so that the structure is silhouetted against the sky when view from a public street. The siting of a future residence on the lower building pad of Lot 1, would ensure that the residence will not silhouette the sky against the backdrop of the ridgeline. The three images below and on the following page are excerpts from the Hillside Ordinance (Figure 3-11), which demonstrate the siting requirements for structures adjacent to ridgelines. The proposed lot configuration is consistent with the ridgeline siting and height limitation regulations.



THIS



NOT THIS

Hillside Development Design Criteria ([NMC Section 19.26.040](#))

- A. Terrain Alteration. The project should be designed to fit the terrain rather than altering the terrain to fit the project. Development patterns that require excessive cuts or fill, form visually protruding horizontal bands or steeply cut slopes for roads or lots shall be avoided.

Discussion/Analysis: The applicant is not proposing any terrain alteration with the proposed land division. The 5 proposed lots were previously graded, resulting in - padded areas that can accommodate future residences without significant future grading. Lots 1 and 2 each have two separate padded areas that could be re-contoured to connect their respective pads. Such grading, if it were to occur, is not considered significant since the activity would involve already disturbed land. Upon approval of the subdivision, design review will be required for individual residences when houses are proposed. Conformance with this standard will be verified at that time.

- B. Structure Siting and Design. Site design shall utilize varying setbacks, structure heights, split-level foundations, and low retaining walls and terraces to blend structures into the terrain. Front building setbacks shall be varied and staggered consistent with natural hillside character.

Discussion/Analysis: This standard is not applicable to the proposed project. Design Review for individual residences will ensure conformance with this standard.

- C. Location of Structures. Structures should be located in the most accessible, least visually prominent, and most geologically stable portion or portions of the site. When feasible, place structures so that they will be screened by existing vegetation, rock outcroppings, or depressions in topography. Buildings and improvements should be located to save trees and minimize visual impacts. Additional native plant materials should be added to augment the screening qualities of existing vegetation, where appropriate.

Discussion/Analysis: The project site is located in a manner making it visible from public vantage points in the Bahia neighborhood, including Bahia Drive, Cerro Crest Drive, Laguna Vista Drive and Topaz Drive. Given this circumstance and the site's topography, the proposed subdivision would create lots upon which future development would be visible from off-site public vantage points. This circumstance is consistent with existing development in the Bahia area that is currently visible from similar vantage points. The visibility of new development on the proposed lots is primarily a function of the home designs placed thereon, a matter that will be addressed at the time Design Review is completed for individual residences.

Future development on the proposed lots is envisioned to be located within the flat, padded areas of each lot. These areas represent the most geologically stable portions of the project site. Subdividing the property will not affect the geological stability of the project site. Future residences will require the preparation of a site specific geotechnical report addressing site stability and drainage. This documentation will insure the design of new residences will maintain the geological stability of the proposed lots.

The balance of the requirements of item C. will be addressed at the time design review is completed for individual residences.

- D. Retaining Walls. Tall and/or long retaining walls shall be avoided. Retaining walls shall be divided into terraces to reduce the individual heights of walls where practicable, with landscaping to screen them from view. Generally, no retaining wall should be higher than 8 feet.

Discussion/Analysis: No retaining walls are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

- E. Exterior Lighting. Hillside development shall not create an array of bright lights. Lighting shall be properly designed to eliminate direct and off-site glare and the spill of light to surrounding areas. Site and building designs shall incorporate low-intensity exterior lighting. The use of low ground-level fixtures is encouraged, as opposed to the use of fewer, but taller fixtures.

Discussion/Analysis: New light sources are not proposed with this land division. Design Review for individual residences will ensure conformance with this standard and Novato Municipal Code [Section 19.22.060 \(Light and Glare\)](#).

- F. Colors and Materials. A harmonious mixture of materials, and colors, should be used to blend structures and site improvements with the natural hillside as follows:

1. Colors that emulate native vegetation and soils shall be used for exterior elevations and roofs. Darker, flat tones, such as, browns, black, greens and terra cotta shall be used for exterior siding and roofs in high-visibility areas. Light or bright colors shall be avoided; and

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

2. Surface materials and roofs should include a mix of rough textures to blend with the coarseness of landscaping and natural vegetation in hillside areas. Materials including but not limited to stucco, wood, brick, and coarse block are appropriate materials to use.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

- G. Architectural Design. Structures shall be designed as follows:

1. Buildings and improvements shall be scaled to complement the hillsides and to avoid excessively massive forms that dominate views of the hills.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

2. Residential development on infill hillside lots shall be of a scale that is compatible with the existing adjacent neighborhood, and shall be designed to locate windows, balconies, and outdoor living areas with consideration for the privacy of adjacent dwellings and yards, to the maximum extent feasible.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

3. Building facades shall have varying vertical planes and overhangs shall be used as a means to create changing shadow lines to reduce the visual mass of forms. Building architectural elevations shall be stepped to follow the natural contour of the slope and to minimize building heights. See Section 19.26.050.J for building step back requirements.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

4. Wall surfaces visible from off-site on properties located within an area of Scenic Resource, [Section 19.20.080](#), as designated by the General Plan, shall be minimized in scale through such design features as: the use of single story elements, setbacks, roof pitches, and landscaping.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

5. Roof pitches shall generally be designed to follow the angle of the site slope; but variation may be provided to avoid a monotonous appearance.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

6. Structures with visible structural underpinnings that extend more than six feet above grade shall be avoided. Integrate structural underpinnings for decks, additions or foundation structures that exceed six feet in height into the design aesthetic of the building.

Discussion/Analysis: No buildings are proposed with this land division. Design Review for individual residences will ensure conformance with this standard.

Lot Configuration ([NMC Section 19.26.050.G](#)): The creation of new lots or the relocation of lot lines shall comply with the following standards:

1. Lots shall not be created which are impractical for improvement, due to steepness of terrain, geologic hazards, or location of watercourses or drainage.

Discussion/Analysis: The proposed lots are configured to include the existing level pad areas, which are considered to be sufficiently sized to support a single-family residence and accompanying landscaped outdoor spaces. This observation is based on the net land areas within the padded areas of each lot. These areas are consistent in size to a standard single-family residential parcel, which range from approximately 5,000 to 10,000 sq. ft.

2. Lot layout shall be designed to avoid grading or building within 25-vertical feet of the top 5-foot contour of a ridgeline or knoll.
3. Lots shall not be created with building envelopes which would allow structures to project within 25-feet of the top 5-foot contour of a ridgeline or knoll.

Discussion/Analysis: Lot 1 includes a ridgeline (toward Cerro Crest Drive). The applicant has demonstrated that a residence can be constructed on Lot 1 conforming to the 25-foot vertical separation required by the Hillside Ordinance as indicated by Section A-A on plan

sheet A0.1. Additionally, no grading would be required within 25 vertical feet of the identified ridgeline.

4. Lots shall not be created where the average slope within the building envelopes would exceed 25 percent for residential sites and 20 percent for non-residential sites.

Discussion/Analysis: The applicant has depicted building envelopes on the tentative map (Sheet TM-4 – see “Lot Summary Table”) that have an average slope of less than 25 percent. The building envelopes shown on sheet TM-4 are for example purposes to demonstrate compliance with the average slope requirement noted above. These building envelopes do not necessarily represent the definite location or extents of a future home or improvements on a given parcel.

5. Lot configurations shall be designed to minimize grading and preserve topographic and geologic features.
6. Lot configurations shall take into account natural landforms and vegetation to the greatest extent possible.

Discussion/Analysis: The applicant is not proposing any grading with the requested entitlements. Staff has reviewed the proposed lot configuration and determined that the proposed lots are buildable with minimal grading and natural topographic and geologic features can be preserved. Lots 1 and 2 each have two separate padded areas that could be re-contoured to connect these pads. Such grading, if it were to occur, would generally limit grading to disturbed areas of the site and avoid existing, natural areas of the property.

7. Lots shall be designed to avoid lot-to-lot drainage. Individual lots shall include the top of slope areas to the extent practicable to help reduce lot-to-lot drainage and facilitate any future slope maintenance.

Discussion/Analysis: The proposed lot configuration conforms with this standard. Design Review will be required of future residences and will include consideration of drainage improvements.

Placement of Structures (NMC Section 19.26.050.H): Structures shall not be placed on average slopes exceeding 25 percent for residential development and 20 percent for non-residential development, to the extent feasible. Encroachment of building envelopes on slopes exceeding these percentages may be permitted by the review authority only where any of the following findings can be made:

1. It is substantially unfeasible to locate the proposed building inside the maximum percent slope area; or
2. Where such location would have a substantially more adverse effect on the environment; or
3. Where such location is deemed appropriate to facilitate clustered development; or

4. Measures are included that provide adequate mitigation of environmental impacts such as visual, biological and geotechnical impacts.

Discussion/Analysis: The applicant is not proposing to construct residences at this time. Futures residences will be subject to demonstrating compliance with the placement requirements noted above the time of design review and through the subsequent building permit review process.

Setbacks Between Structures and Toes/Tops of Slopes ([NMC Section 19.26.050.K](#)): On adjacent lots having a difference in vertical elevation of three feet or more, the required side yard shall be measures from the nearest toe or top of slope to the structure, whichever is closer.

Discussion/Analysis: Conformity with this requirement is depicted on Plan Set Sheet TM-4. Compliance with this standard will be confirmed at the time a future residence is reviewed through Design Review.

Design Review Finding No. 2: The proposed project would maintain and enhance the community's character, provide for harmonious and orderly development, and create a desirable environment for the occupants, neighbors, and visiting public.

Discussion/Analysis: This project's design is considered to conform with and advance Design Review Finding No. 2 as follows:

Scenic Resources Protection Ordinance

Novato Municipal Code [Section 19.20.080 \(Scenic Resource Protection\)](#) include development standards intended to implement the scenic resource protection policies of General Plan Policies EN 27 and EN 27.1. The development standards codified in NMC Section 19.20.080.D, and an analysis of the project conformity are detailed below:

1. *Protection of Existing Views.* Development and new land uses, or changes to existing structures or land uses shall not result in a change in the elevation of the land, or the construction of any improvement that would significantly or materially alter, or impair major views, vistas, viewsheds of major landforms from public roads, or public vantage points as described above .

Discussion/Analysis: The proposed 5-lot subdivision is designed to utilize existing padded areas within each lot. It is estimated that only minimal grading of the existing disturbed land will be required when development is proposed on the individual lots. The upper elevations of the site are not proposed for development. The ridgeline on the site is at the 154-foot elevation; due to zoning code limitations, the highest roof peak permitted is at the 125-foot elevation. Based on the codified development standards, the upper portion of the site will not be developed.

Views across the project site will change since it is not possible to develop the property in a manner preventing the visibility of new development thereon. The proposed subdivision, in and of itself, would not result in any altered views. However, the design of future residences on the proposed parcels would modify views across the site from public vantage points, including site lines from Bahia Drive to the Petaluma River. Future residences will be subject to Design Review. At that time, an individual residence will be assessed with respect to preserving views to the extent feasible.

2. *Side Yard View Corridors.* Where side yards provide a public view from the street to the river or bay, or a view to hills or valleys, the side yards should be maintained as open visual access corridors. These areas shall be open to the sky and free from all visual obstructions including trees and shrubs (except for a gate or fence constructed of open materials that still allow the view) from the front property line to the rear property line. Existing structures are exempt from this requirement.

Discussion/Analysis: Minimum side yard setbacks required by the Zoning Code will ensure that side yard view corridors are maintained, as applicable. Plan Set Sheet TM-4 depicts the side yard setback applicable at the site assuming the property is rezoned to R1-10. Design review for individual lot development will further ensure compliance with Development Standard No. 2.

3. *Screening.* All industrial facilities, and public and private utilities shall be screened from the view of any public roadway to the maximum extent feasible. See also the screening requirements of [Section 19.20.090](#) (Screening).

Discussion/Analysis: This is a residentially zoned site. Industrial facilities are not permitted at the site.

4. *Existing Topography.* Proposed development, including roads, shall minimize the alteration of the natural topography and scenic values of the area.

Discussion/Analysis: The project site was altered in the 1960s, resulting in pads terraced down the hill parallel to, and adjacent to Bahia Drive. At least one building pad is included within each proposed lot. Each proposed lot can be developed with a single-family residence with no or minimal alteration of the natural topography. Design review for each lot will be required in the future when development is proposed.

5. *Hillside and Ridgeline Backdrops.* The size, location, and massing of structures shall not significantly obscure views from Highway 101 and other public roads of the scenic backdrop provided by the hillsides.

Discussion/Analysis: The project site is not located near Highway 101. Bahia Drive, a public street, is adjacent to the project site. Additional public streets in the vicinity include Topaz Drive and Malobar Drive.

As indicated by Section A-A on plan sheet A0.1, a future residence on Lot 1 would have a minimum of 25 feet between the highest roof peak and the ridgeline at the west end of the property, thereby maintaining views from public streets of the ridgeline.

6. *Landscaping.* Landscaping shall be designed to enhance existing scenic views.

Discussion/Analysis: Landscaping is not proposed with the 5-lot subdivision. Landscaping will be reviewed with the required design review when development of each lot is proposed.

Design Review Finding No. 3: The proposed development would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.

Discussion/Analysis: This project is considered to conform with and advance Design Review Finding No. 3 as follows:

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

RECOMMENDATION

Staff recommends the Design Review Commission recommend approval of the design aspects for the project as presented on the plans prepared by CSW ST2, revised 7/24/2019, and Polsky Perlstein Architects, revised 8/1/2019, based on the required findings and as discussed in the staff analysis section of this report above, and subject to the conditions below.

ALTERNATIVES

1. Recommend approval of the site design and lot configuration for the project as designed; or
2. Recommend approval of the site design and lot configuration for the project with recommended revisions; or
3. Do not recommend approval of the site design and lot configuration.

DESIGN REVIEW COMMISSION FINDINGS

1. In accordance with [Section 19.42.030.F](#) of the Novato Municipal Code and on the basis of the discussion in the staff analysis section of this report above, the Design Review Commission finds that:
 - A. The design, layout, size, architectural features and general appearance the project is consistent with the general plan and with the development standards, design guidelines and all applicable provisions of this code.

- B. 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.
 - C. The project would not be detrimental to the public health, safety, or welfare; is not materially injurious to the properties or improvements in the vicinity; does not interfere with the use and enjoyment of neighboring existing or future developments and does not create potential traffic, pedestrian or bicycle hazards.
2. In accordance with [Section 19.26.060](#) (Hillside and Ridgeline Development Findings) of the Novato Municipal Code and on the basis of the discussion in the staff analysis section of this report above, the Design Review Commission finds that:
- A. The design, scale, massing, height and siting of development is compatible with the character and scale of the surrounding, developed neighborhood.
 - B. The design and site layout of the hillside project is respectful of and protects the natural environment to the maximum extent feasible.
 - C. Site grading has been designed to be as minimal as possible to achieve sensitive hillside design, minimize tree removal, and provide safe site access and required parking.
 - D. The hillside project is designed and sited to screen development, to the extent feasible, through clustering and/or avoiding of highly visible hillsides, ridgelines, and knolls.

CONDITIONS OF APPROVAL

1. Pursuant to NMC Division 19.26 and/or NMC Section 19.42.030, as may be amended from time to time, development of a residence on each of the five lots shall be subject to the City's design review application, review procedures, and design approval prior to issuance of a building permit(s).
2. Indemnity and Time Limitations
 - a. The applicant 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 decision at issue herein. This indemnification shall include damages or fees awarded against the City, if any, costs of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by the applicant, the City, and/or parties initiating or bringing such action.
 - b. The applicant 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 applicant 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. 3 or 4 above is brought, the City shall promptly notify the applicant 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 applicant in the defense of said claim, action, or proceeding. If the City chooses to have counsel of its own to defend any claim, action, or proceeding where the applicant has already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the applicant.
- d. The applicant 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.

FURTHER ACTION

The project will be presented to the Planning Commission and City Council at future public hearings for their consideration.

ITEMS AVAILABLE FOR DIGITAL REVIEW AND DOWNLOAD

1. [Project Plan Set](#)
2. [DRC Meeting Minutes](#)