REQUEST


RECOMMENDATION

Provide direction to staff.

SUMMARY

This is the fifth White Paper being prepared for the General Plan Update. The purpose of the White Papers is to provide initial direction on certain policy questions to aid staff in the preparation of the Draft General Plan, which will then be evaluated in the environmental impact report (EIR) prepared for the General Plan. As such, the Commission recommendations and Council direction are preliminary, and will be reconsidered upon review of the Draft General Plan and EIR.

A major focus of the 1996 General Plan was environmental protection, which subsequently resulted in the adoption of zoning regulations affecting hillside development as well as wetland/creek preservation. The Hillside and Ridgeline Protection Ordinance was adopted in 2001, and the effect of the ordinance on development review over the past decade and its potential effects on remaining vacant hillside properties are analyzed in the attached White Paper, along with policy options for future modifications to the ordinance.

ANALYSIS

The attached White Paper provides a summary of the Ordinance and analysis of its effect on four development applications (two commercial and two residential) processed just prior to or since its adoption in 2001 and its application to numerous vacant hillside parcels. In summary,
In its application to the approved Tamalpais Hill and Canyon Green subdivisions, the Hillside Ordinance reduced the maximum allowed residential density by 73% (Tamalpais Hill) and 32% Canyon Green. In both cases, the maximum density permitted by the Hillside Ordinance still fell between the minimum and maximum densities allowed under the General Plan. And, in both cases, the density ultimately approved for both projects was at or very close to the maximum density allowed under the Hillside Ordinance, suggesting that the ordinance reductions did yield a more realistic development potential than that permissible prior to the ordinance.

In its application to the approved office developments at 7250 De Long and 690 De Long the ordinance would have much more severely limited development of the Woodside Office Building (7250 De Long) than the project ultimately approved (89,000 sq. ft. approved, 19,000 sq. ft. allowed by Hillside Ordinance), while the Gateway Office Building (690 De Long) was approved at 10,000 square feet, which is what was permitted under the Hillside Ordinance.

Twelve vacant residentially-zoned properties and three commercially-zoned sites were analyzed. The Hillside Ordinance reduced residential density between 29 and 93% compared with the underlying General Plan density, most severely on parcels with slopes typically over 25%, and reduced the maximum commercial square footage between 47 and 96%. Almost all of the remaining vacant hillside sites are very constrained by topography, environmental resources or visibility, so the Hillside Ordinance reductions seem appropriate to avoid very unrealistic expectations of owners regarding their development potential.

The ordinance generally lacks any exception provisions. Based on the analysis, this seems particularly constraining in situations where existing single family homes built prior to the Hillside Ordinance are precluded from making any additions or for commercially-zoned sites where surrounding development occurred prior to the Hillside Ordinance, and the resulting new building would be much more limited than the existing, adjacent development.

**POLICY OPTIONS**

The White Paper concludes with four policy options for discussion:

1. Add a new program in the General Plan calling for consideration of a future amendment to the Hillside Ordinance which would improve upon either the mapping of ridgelines or the definition of ridgeline regulated by the ordinance.

2. Add a new program in the General Plan calling for consideration of a future amendment to the Hillside Ordinance creating an exception process and criteria which would allow increasing the maximum allowable floor area for commercial development and deviating from the Hillside Development Standards for residential additions and alterations to homes built prior to the ordinance.

3. Add a new program in the General Plan calling for consideration of a future amendment to the Hillside Ordinance to clarify if the current exception allowing the size of a new or expanded single family dwelling to exceed prescribed size limits also allowed the exceedance of the 4,500 square foot maximum home size limit.
4. Whether the slope threshold for application of the Hillside Ordinance should be reduced from 10% to 15%.

The pros and cons of these options are discussed in the accompanying White Paper.

**DESIGN REVIEW COMMISSION INPUT**

The Design Review Commission considered the White Paper at their meeting of January 21, 2015 (see attached draft minutes). The Commission offered the following feedback:

1. All four Commissioners agreed that a definitive Ridgeline Map is preferable to a more refined definition.

2. All four Commissioners agreed that an exception process and criteria should be created to allow expansion of single-family homes built prior to the Hillside Ordinance and they did not agree with providing an exception for commercial development, which they believe is already challenging, particularly given the need for grading for required parking areas.

3. All four Commissioners agreed that the current allowance for homes over the maximum floor area ratio should be clarified to also apply to the 4,500 square foot maximum dwelling size.

4. Two Commissioners believe that the current 10% average slope threshold for applicability of the Hillside Ordinance should remain. Two Commissioners felt that the trigger should be increased to 15% slope for residential development, retaining the 10% slope trigger for commercial.

**PLANNING COMMISSION INPUT**

The Planning Commission considered the White Paper at their meeting of February 2, 2015 (see attached minutes). The Commission offered the following feedback:

1. All Commissioners agreed that a better definition of a ridgeline is preferable to a refined map.

2. Commissioners agreed that an exception process and criteria should be created to allow expansion of both existing dwellings (7-0 vote) and non-residential projects (5-2 vote) built prior to the Hillside Ordinance.

3. All Commissioners agreed that the current allowance for homes over the maximum floor area ratio should be clarified to also apply to the 4,500 square foot maximum dwelling size for expansions to existing homes only.

4. All Commissioners believe that the current 10% average slope threshold for applicability of the Hillside Ordinance should remain.

**ENVIRONMENTAL ASSESSMENT**

No environmental assessment is being prepared on the General Plan White Papers, which are intended to provide preliminary policy direction to City staff. However, CEQA analysis will be
performed on the Draft General Plan, which will incorporate the preliminary policy direction for this area, as well as on policy alternatives prior to formal adoption of the new General Plan.

**ALTERNATIVES**

1. Direct staff to incorporate desired policy options into the Draft General Plan; or
2. Direct staff to provide additional analysis and recommendations.

**ATTACHMENTS**

1. Hillside and Ridgeline Preservation White Paper
2. February 2, 2015 Planning Commission minutes
3. January 21, 2015 DRC minutes
HILLSIDE AND RIDGELINE PROTECTION ORDINANCE
January, 2015
The Issue

The General Plan adopted in 1996 included many policies and programs to increase preservation of the City’s natural amenities, including its scenic hillsides. Program 27.1 of the Environment Chapter called for the creation of an ordinance to better regulate hillside development. In 2001 a new Zoning Code was adopted, which included a new Hillside and Ridgeline Protection Ordinance (Division 19.26), which has regulated new development in the hillside areas over the past thirteen years. The purpose of this document is to analyze the effectiveness of these regulations.

White Paper Purpose

The purpose of the General Plan White Papers is to provide initial direction on certain policy questions to aid staff in the preparation of the Draft General Plan, which will then be evaluated in the environmental impact report (EIR) prepared for the General Plan. As such, the Commission recommendations and Council direction are preliminary, and will be reconsidered upon review of the Draft General Plan and EIR.

Background

1996 General Plan

The current General Plan was adopted on March 8, 1996. The Plan serves as a framework for public and private development that governs all land use regulations. Many of the policies and programs contained in the Plan are implemented through the Zoning Ordinance. Environmental Policy EN 27 and Program EN 27.1 are implemented through Chapter 26 of the Zoning Ordinance. The Plan Policy and Program are as follows:

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

EN Program 27.1: Establish Hillside and Ridgeline Protection Standards and Scenic Resource Protection standards to preserve visual values on hillsides, ridgelines, and other scenic resources. Existing policies would remain in effect until the standards are established

Hillside and Ridgeline Preservation Ordinance

Division 19.26 of the Novato Municipal Code, referred to as the Hillside Ordinance, was adopted in 2001 as part of a new Zoning Code. The following summarizes key components of the regulations and review process:

<table>
<thead>
<tr>
<th>Applicability</th>
<th>Applicable to properties with an average slope over 10%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Review:</td>
<td>A design review approval is needed for all development except:</td>
</tr>
<tr>
<td></td>
<td>- new accessory buildings,</td>
</tr>
<tr>
<td></td>
<td>- additions to existing residences which don’t exceed 10% of the existing structure,</td>
</tr>
<tr>
<td></td>
<td>- retaining walls, and</td>
</tr>
<tr>
<td></td>
<td>- improvements deemed by the Community Development Director to be visually insignificant.</td>
</tr>
<tr>
<td></td>
<td>Additional findings for approval of hillside developments is required.</td>
</tr>
<tr>
<td>Constraints Analysis:</td>
<td>In addition to all other application submittals, a Constraints Analysis must be submitted, typically including geotechnical and biological assessments.</td>
</tr>
</tbody>
</table>
Design Criteria:
Design Criteria are contained which provide design guidance for terrain alteration, structure siting and design, retaining walls, exterior lighting, and colors and materials.

Development Standards:

<table>
<thead>
<tr>
<th>Development Standard</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Density and Non-Residential Building Size</td>
<td>Allowable residential density and non-residential maximum floor area is determined using a sliding scale table based on average lot slope. Slopes over 25% for residential or 20% for non-residential have no development potential.</td>
</tr>
<tr>
<td>Maximum Building Size</td>
<td>A sliding-scale table provides for the maximum size of a single-family home or a non-residential development based on average lot slope. Single-family homes are limited to a maximum size of 4,000 square feet with an additional 500 square feet for a garage or accessory building. An exemption can be granted by the approval authority to exceed this limit based on specific findings.</td>
</tr>
<tr>
<td>Building Siting</td>
<td>New structures cannot be silhouetted against the sky when viewed from public streets. The peak of a building must be located at least 25 feet below a ridgeline.</td>
</tr>
<tr>
<td>Building Height Limits</td>
<td>Maximum 25 feet for residential and 35 feet for non-residential structures. Buildings must be stepped with the site grade with a maximum wall height of 20 feet from grade.</td>
</tr>
</tbody>
</table>

**Ordinance 1461, July 9, 2002 - First Amendment to the Hillside Ordinance**

On January 14, 2002, the City Council and Design Review Commission held a joint meeting to discuss the recently adopted Hillside and Ridgeline Protection Standards (NMC Division 19.26). In June 2003, the City Council reviewed a work program for revisions to the Hillside Ordinance. The work program included suggestions to improve the City’s process and standards for hillside development including: street standards; utilization of average slope; mandatory Design Review Workshops; and avoiding commercial development on slopes over 20%. In addition, the Council requested staff to evaluate: a prohibition of development on slopes greater than 25%; street standards contained in NMC Chapter 5, Development Standards; and a ridgeline definition. The amendments contained in this ordinance included:

1. Clarification language in Section 19.26.050 relating to residential density;
2. Adding specific non-residential zoning designation to Table 3-6;
3. Clarification of Non-residential building intensity
4. Adding “driveways” to the street layout section;
5. Adding “average slope” to the Lot Configuration section to be consistent with other standards within the ordinance that use the “average slope” terminology
6. Clarifying that structures shall not be placed on average slopes exceeding 30%; and
7. Clarifying that ridgeline protection policies apply to sites adjacent to or on hilltops or ridgelines.
Ordinance 1480, January 13, 2004 - Second Amendment to the Hillside Ordinance

On June 24, 2003, the City Council adopted a second amendment to the Hillside Ordinance. This amendment was a follow up to the previous amendments to further implement suggestions that were made during the January 2002 joint meeting of the City Council and Design Review Commission. The ordinance was introduced on December 9, 2003 and adopted on January 13, 2004. This amendment included the following:

1. Reducing the average slope for building envelopes and the maximum slope limits used to calculate residential density from 30% to 25% and non-residential intensity from 30% to 20%.
2. Requiring (where appropriate, to the extent feasible) the clustering of residential development where this had been “encouraged” previously.
3. Allowing split and/or narrower roads for hillside development
4. Adding a new section and Tables which limited the allowable residential building size based on the average slope and size of the lot, as the average slope increased, the allowable floor area of the house decreased.
5. Changes and additions to the Height Limitations section to define how height is measured and limiting the overall height of a residential structure, limiting the height of vertical walls and requiring buildings to be stepped back on down slope elevations.
6. Adding supplemental design review findings for hillside development.

Ordinance 1576, October 23, 2012 – Third Amendment to the Hillside Ordinance

As part of an overall Zoning Ordinance text clean-up amendment, text was added to exempt the design review requirement for accessory structures and additions which are less than 10% of the square footage of the main structure that are visually insignificant as determined by the director.

ANALYSIS

Effect of the Hillside Ordinance on Development Projects in Novato

Since the Hillside Ordinance was first adopted in 2001, it has been applied to all development on parcels of land that have an average slope of 10% or greater. Development includes new development on a vacant parcel, additions to existing building structures, additions to existing development (such as detached accessory structures, decks, retaining walls), modifications to existing development (such as new building facades, changes to roof design, pitch), and grading modifications on developed parcels.

Several examples of hillside developments that were reviewed prior to or after the adoption of the Hillside Ordinance that have been constructed are discussed below. More technical information and site plans of the developments are contained in Attachment 1.

7250 Redwood Blvd.

The office building located on the southeast corner of DeLong Avenue and Redwood Blvd. was approved prior to the adoption of the Hillside Ordinance. The site is a 5.85 acre parcel with an average slope of 28.61%. The General Plan designation of Mixed Use (MU) would permit a maximum 102,007 square foot commercial-only building, or a maximum 204,015 square foot mixed use building (commercial and residential). The approved all office building at 89,031 square feet is approximately 13% less than the maximum Floor Area permitted by the General Plan. However, had the current Hillside Ordinance floor area reduction factor been applied to the
project, the maximum building area (including a bonus for subfloor parking) would have been 18,757.43 square feet. If housing had been included in the project, the building could have been a maximum of 37,514.86 square feet. Both the commercial only and mixed use projects would have reduced the maximum General Plan intensity by approximately 82%.

Tamalpais Hill Residential Subdivision

The Tamalpais Hill residential subdivision was going through the entitlement process at the same time the Hillside Ordinance was being considered by the City Council. The project consisted of two parcels totaling 33.7 acres. The parcels had General Plan designations of RVL, Very Low Density Residential and R1, Low Density Residential. The General Plan designations would permit a range of 23 – 88 dwelling units to be developed on the site. The Draft Hillside Ordinance proposed at that time would allow a density in the range of 8 – 24 dwelling units.

The project was approved with 23 dwelling units which were clustered on the lower portions of the parcels leaving the upper 27 acres as private open space. The Hillside Ordinance reduced the maximum permitted General Plan density by approximately 74%. Under the existing Hillside Ordinance, the site development would be reduced to a maximum of 14 dwelling units, a 83% reduction from the allowed General Plan density.
Canyon Green Residential Subdivision

The Canyon Green residential subdivision was developed on the site of the previous Novato Hospital. The site is 7.5 acres and has an average slope greater than 10%. The project included a General Plan Amendment to change the land use designation from BPO, Business Professional Office to R1, Low Density Residential. The R1 designation would permit residential development between 8 – 37 dwelling units. The Hillside Ordinance reduced the density to a range of 5 – 25 dwelling units. The project was approved for 25 single family dwelling units clustered around a loop road on the lower, less steep portions of the site, preserving 2.9 acres of private open space on the steeper portions of the site. The Hillside Ordinance reduced the maximum permitted General Plan density by approximately 31%.

Gateway Office Building

The Gateway office building is located at 690 Delong Avenue on a 3.7 acre hillside parcel. The General Plan designation is BPO, Business Professional Office, which permits a maximum 0.40 Floor Area Ratio which results in a maximum of 64,875 sq. ft. of office space. The hillside ordinance reduction reduces the maximum permitted gross building area to 10,077 square feet. A 9,999 square foot building was approved by the City Council. The building incorporated many of the design criteria contained in the hillside ordinance such as: varying vertical planes on the
building facade; roof pitch complimentary to the hillside; roof overhangs; stepped elevations; and, building located on the lower elevations of the site. The project reduced the maximum General Plan intensity by approximately 84%.

Evaluation of Ordinance Effects on Selected Vacant Parcels

Staff has reviewed 15 larger and/or highly visible vacant hillside parcels to determine the impact of the Hillside Ordinance density/intensity reduction requirements on these parcels. Twelve residential sites were evaluated. The General Plan designations of these sites include RVL, Very Low Density Residential, R1, Low Density residential and R5, Medium Density Residential. In addition, three commercial sites, two with a General Plan designation of Business Professional Office (BPO) and one with a Mixed Use designation, were also evaluated. A detailed analysis of these sites is contained in Attachment 2, and summarized below.

Residential Properties

The Hillside Ordinance reduces residential density based on the amount of land area contained in slope categories of 0% – 10%; 10% – 25%; and over 25%. Areas of land in the over 25% slope category are not allocated any development potential. Ten of the twelve residential properties contained the majority of the land area in the over-25% slope category. The density on these parcels was reduced between 74% and 93% from the maximum density permitted by the General Plan. The two sites that contained larger portions of the site below 25% slope resulted in a density reduction between 29% and 49% from the maximum density permitted by the General Plan.

<table>
<thead>
<tr>
<th>Vacant Parcel</th>
<th>Acres</th>
<th>GP Density Range</th>
<th>Hillside Ord. Density Range</th>
<th>% Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bahia Circle</td>
<td>1.5</td>
<td>7-33</td>
<td>1-8</td>
<td>76-86%</td>
</tr>
<tr>
<td>Misty Road</td>
<td>8.7</td>
<td>9-43</td>
<td>2-11</td>
<td>74-78%</td>
</tr>
<tr>
<td>Lindsay Court</td>
<td>14.4</td>
<td>7-14</td>
<td>1-2</td>
<td>86%</td>
</tr>
<tr>
<td>Lindsay Court/June Lane</td>
<td>25</td>
<td>12-25</td>
<td>2-5</td>
<td>80-83%</td>
</tr>
<tr>
<td>615 Atherton</td>
<td>45.8</td>
<td>22-45</td>
<td>5-11</td>
<td>76-77%</td>
</tr>
<tr>
<td>623 Plum</td>
<td>18.7</td>
<td>9-18</td>
<td>2-4</td>
<td>78%</td>
</tr>
<tr>
<td>7 Madrone Lane</td>
<td>1.2</td>
<td>6-12</td>
<td>1</td>
<td>83-92%</td>
</tr>
<tr>
<td>2 Madrone Lane</td>
<td>1.4</td>
<td>7-14</td>
<td>1</td>
<td>86-93%</td>
</tr>
<tr>
<td>652 McClay</td>
<td>19.9</td>
<td>21-99</td>
<td>11-50</td>
<td>48-49%</td>
</tr>
<tr>
<td>509 Canyon Drive</td>
<td>28.2</td>
<td>14-28</td>
<td>10-20</td>
<td>29%</td>
</tr>
<tr>
<td>Sunset Ridge</td>
<td>33.2</td>
<td>16-33</td>
<td>2-5</td>
<td>82-88%</td>
</tr>
<tr>
<td>255 Alameda Del Prado</td>
<td>21</td>
<td>23-105</td>
<td>2-12</td>
<td>89-91%</td>
</tr>
</tbody>
</table>

The vacant hillside properties analyzed above have remained undeveloped due to in most cases to challenging topography and environmental constraints that would make development very costly and most likely impractical at the levels suggested by the General Plan which apply to more typical properties. For sites that become limited to one single family dwelling as a result of the Hillside Ordinance, virtually all the acreage of the parcel exceeds 25% slope. Staff believes these density reductions reflect a more realistic approach to ultimate development potential of the parcels than the underlying General Plan designations.

Commercial Properties
Similarly, the Hillside Ordinance reduces the maximum commercial intensity (Floor Area Ratio – the maximum building square footage per lot size) based on the amount of land area contained in the three slope categories: 0% - 10%; 10% - 20%; and over 20%, with no development potential allocated on slopes over 20%. The General Plan designations for commercial sites evaluated is BPO (Business Professional Office) or MU (Mixed Use - which allows commercial and housing). Two of the study sites have a majority of the land area in the over-20% slope category and result in a very significant reductions in FAR of 82% to 96%. At this level of reduction it becomes questionable whether an economically viable commercial development could be constructed.

The parcel located on Redwood Blvd., below the Hilltop Restaurant and across from the Novato Fair Shopping Center is located within the Downtown Overlay Zoning District and is surrounded by commercial (office and retail) development. The Hillside Ordinance would reduce the allowable square footage for this parcel to a maximum of 8,600 square feet (if subfloor parking is included in the design) - an 82% reduction from the maximum General Plan FAR. This amount of allowable building square footage may not yield a financially feasible commercial development project.

The vacant parcel located on Reservoir Drive (an undeveloped street on the slope above the Gateway Office Building at 960 De Long [see photo above]) also results in a significant reduction in square footage when the Hillside Ordinance is applied. The development potential for this parcel would result in a maximum of 2,740 square feet with subfloor parking a 96% reduction in square footage. This parcel is surrounded by office and residential development, but development would be very visible.

The third evaluated vacant parcel is located above the cul-de-sac on Landing Court. The 3.4-acre site contains half of the land area over 20% slope. The development potential would be a maximum of 32,000 square feet with subfloor parking, a 47% reduction in square footage from that allowed by the General Plan.

<table>
<thead>
<tr>
<th>Vacant Parcel</th>
<th>Acres</th>
<th>GP Max. Floor Area</th>
<th>Hillside Ord. Max. Floor Area</th>
<th>% Reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redwood</td>
<td>2.7</td>
<td>47,660</td>
<td>8,600</td>
<td>82%</td>
</tr>
<tr>
<td>9 Reservoir</td>
<td>3.6</td>
<td>62,000</td>
<td>2,740</td>
<td>96%</td>
</tr>
<tr>
<td>100 Landing Court</td>
<td>3.4</td>
<td>60,000</td>
<td>32,000</td>
<td>47%</td>
</tr>
</tbody>
</table>

While the few remaining vacant non-residentially zoned properties discussed above are on steep, visible sites, the City must provide the property owners with some economic return from their land. There is currently only an exception process in the Hillside Ordinance for single-family homes which exceed the allowable square footage, subject to making either of the following findings:

- The subject property contains unique conditions, which permit the building to be secluded and have minimal visibility (upon completion) from off-site public or private property, or
- It is determined that the proposed design of the residential building is exemplary or unique in innovative architectural design.

The potential to develop an exception process and criteria to exceed the allowable non-residential (or multi-family) density or Floor Area Ratio size limits in order to allow some reasonably determined minimal development potential based largely on compatibility with the character of existing, nearby development, is discussed under Options below.

Comparison with other Hillside Ordinances

Staff did a quick comparison of Novato’s standards with other hillside ordinances, as shown below:
<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Applicability</th>
<th>Grading Limits</th>
<th>Slope Limits</th>
<th>Setbacks</th>
<th>Site Coverage</th>
<th>FAR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cotati</td>
<td>Slopes 10%+</td>
<td>No grading on slopes of 15%+</td>
<td>No parcel created without building site of 5,000+ sf that has no slope of 10%+</td>
<td>Front: 10’</td>
<td>Total site coverage of structures &amp; impervious surfaces not exceed 30% on areas with slopes less than 15%; 0% coverage on slopes over 15%</td>
<td>0.3 FAR on slopes up to 15%. No FAR on slopes over 15%</td>
</tr>
<tr>
<td>Santa Rosa</td>
<td>Slopes 10%+</td>
<td>&quot;Minimize alteration of topography &amp; drainage&quot;</td>
<td>Average parcel slope shall not exceed 25%</td>
<td>Front: 20’</td>
<td>Underlying district</td>
<td>.4 FAR home size for 10% slope, .35 FAR for 15% slope</td>
</tr>
<tr>
<td></td>
<td></td>
<td>No alteration of slopes 25%+ and identified by visual analysis as visually sensitive</td>
<td></td>
<td>Side: 15’</td>
<td></td>
<td>House size capped at 4,500 sf</td>
</tr>
<tr>
<td>Novato</td>
<td>Slopes 10%+</td>
<td>Fit the terrain</td>
<td>Density and home size reduction by slope: 60% density reduction on slopes 10-25%</td>
<td>Underlying district</td>
<td></td>
<td>Underlying district</td>
</tr>
<tr>
<td>San Rafael</td>
<td>Slopes 25%+</td>
<td>Natural state requirement</td>
<td>Density and home size sliding scale by slope</td>
<td>Underlying district</td>
<td></td>
<td>Underlying district</td>
</tr>
<tr>
<td>Napa</td>
<td>Slopes 15%+</td>
<td></td>
<td>Density reduction on slopes 15-30%</td>
<td>Underlying district</td>
<td></td>
<td>Underlying district</td>
</tr>
<tr>
<td>Santa Cruz</td>
<td>Slopes 30%+</td>
<td>No development on slopes 30%+</td>
<td>No new lot created with home sited within 30’ of 30%+ slope</td>
<td>Underlying district</td>
<td></td>
<td>Underlying district</td>
</tr>
</tbody>
</table>

**Staff Conclusions Regarding Effectiveness of the Hillside Ordinance**

Planning staff has been implementing the Hillside Ordinance as amended since 2001. The amendments that have been made to the ordinance have provided clarification of sections of the ordinance as well as reducing densities and intensities of development on the hillsides. Staff believes that the density/intensity reduction portions of the ordinance, when applied to new development,
has achieved the goal of limiting hillside development and designing projects that fit much better with the topography of the site. These reductions do not give property owners an inflated sense of the real development potential of these challenging sites.

The major difficulties that staff has encountered have been in applying the Hillside Ordinance to existing and infill residential homes located on hillsides where the existing house and, in some instances, the surrounding neighborhood, was built prior to the adoption of the Hillside Ordinance. Existing houses may exceed the size limitations, height limitations or the existing design does not comply with the Hillside design criteria. In many cases where homes were built on hillsides on relatively small lot sizes the house size reductions do not allow for any expansion potential. Homes that were built on or near former ridgelines (which may now be obscured by surrounding development) may be precluded from additions based on proximity to the ridgeline. Staff recommends that the hillside standards be reviewed for infill additions and modifications, and possibly additional exception(s) to the standards be added to the ordinance so that existing houses on hillsides would not be deprived of privileges enjoyed by other property owners in the vicinity or have some opportunity for deviation from design standards that have been established for new homes. An option to address this issue is provided in the next section of this report.

Implementation of the Section 19.26.050.G.2 and 3 (Lot Configuration) has also been challenging. This section states that new lots shall be created to avoid grading or building within 25 vertical feet of a ridgeline of knoll or where building envelopes would allow structures to project within 25 feet of the top 5-foot contour of a ridgeline of knoll. In addition, Section 19.26.050.J.2 (Siting and Height Limitations) states that structures shall be located so that a vertical separation of at least 25 feet is provided between the top of the structure and the top 5-foot contour of a ridge or knoll. The definition of a Ridgeline contained in the General Plan and zoning ordinance respectively are:

- “A line connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another.”
- “The highest 5-foot contour elevation of a landform including any locations which, when viewed from a public street within one-eight (1/8) mile of the subject site, no earth backdrop for a structure placed thereon is afforded by the subject or contiguous property. Scenic ridgelines are delineated in the Novato General Plan Map EN 3.”

The later definition suggests greater specificity on General Plan Map EN 3 than exists. Map EN 3 (see Attachment 4) does not identify specific ridgelines, only generalized hilltop areas, so is not particularly useful as a regulatory reference.

A better definition of a ridgeline or creation of a ridgeline map would provide more clarify to staff and applicants.

Finally, staff has struggled with an interpretation issue related to the one exception provision included in the ordinance allowing a new or expanded single-family dwelling to exceed the maximum size limit contained in the sliding-scale Tables 3-6.1 and 3-6.2. It is unclear if the exception provision contained in Section 19.26.050(I)(5), which refer to Tables 3-6.1 and .2 also applies to the 4,500 square-foot maximum dwelling size limit contained in Section 19.26.050(I)(1&3). In several past instances the Design Review Commission has allowed homes which exceed both the FAR table and the 4,500 sf maximum, making the required findings. The ordinance should be reworded for clarity.
POLICY OPTIONS

There are several policy options for the Planning Commission and City Council’s consideration that might direct future revisions to the Hillside and Ridgeline Protection Ordinance. These policy options and staff’s analysis of the pros and cons of each option are discussed below.

1. Add a new program to General Plan Policy EN 27 calling for consideration of a future ordinance modification to the definition of a ridgeline and/or develop a more precise ridgeline map to better identify locations subject to ridgeline restrictions.

   Pros: Would add clarity for staff and applicants as to where the Hillside Ordinance applies.

   Cons: A map of affected ridgelines may be controversial to adopt.

2. Add a program to Policy EN 27 calling for consideration of a future ordinance modification that would create an exception process and criteria to allow:

   a. An increase in the maximum floor area ratio (FAR) commercial development to be authorized under certain circumstances (location, surrounding development, design, lack of environmental impacts, etc.), and/or

   b. Deviation from the Hillside Development Standards for residential additions and alterations to homes constructed prior to the enactment of the Hillside Ordinance (again, subject to criteria such as compatibility with surrounding development, visibility, etc).

   Pros: The availability of an exception process may be very useful in situations where the reductions imposed by the Hillside Ordinance preclude virtually all economic use of a property, which could result in a legal claim of inverse condemnation or City purchase of the property to keep it undeveloped. It is unusual for a hillside ordinance to not have an exception clause for such situations.

   For some parcels, application of the Hillside Ordinance restrictions may not seem equitable when all surrounding properties were developed prior to such limitations. An example may be the vacant parcel between S. Novato Boulevard and the Hilltop Restaurant. An exception process may allow development which is more similar in character to the adjacent commercial sites on South Novato Boulevard, if an acceptable design is arrived at.

   In numerous cases of existing single family homes built prior to 2001, the imposition of the Hillside Ordinance would eliminate all potential for physical expansion of the dwelling due to size limits or building location near or along a ridgeline. In some cases the former typography of an area is no longer distinguishable since homes were built on the ridgeline, so allowing some expansion would not further detract from the objective of retaining views of ridgelines, which in this example has already been eliminated. Again, it is rare for hillside ordinances to not have some form of exemption opportunity for existing homes built prior to the ordinance.

   Cons: May open the door for applications which are ultimately deemed incompatible with the intent of the ordinance and surrounding development, resulting in an extended review process and disgruntled applicants or neighbors.

3. Add a program to Policy EN 27 calling for consideration of a future ordinance modification to clarify that the exception provided in Section 19.26.050(I)(5) allowing the size of a new or expanded single-family dwelling in excess of the maximum size limits in Tables 3-6.1 and
3-6.2 and above the 4,500 square foot maximum size established in Section 19.26.050(I)(1&3).

Pros: Would clarify current ordinance language for staff and applicants.

4. **Increase the slope threshold for application of the Hillside Ordinance from 10% to 15%**.

Pros: Would eliminate the additional cost and time of an application for sites below and average slope of 15%. A site with a 10-15% slope is not excessively steep or challenging to develop.

Cons: Would constitute a very substantive change in the Hillside Ordinance.

Note: As indicated in the table above, existing hillside ordinance have a wide range of slope “trigger points,” including 10%, 15%, 25% and 30%.

**CONCLUSION**

The Hillside Ordinance has been very effective in reducing the scale of development based on property slope and establishes very helpful design standards for new structures. By clarifying these standards in detail, applicants have a much greater likelihood of bring forward a successful project that may require some redesign, but is usually not fundamentally incompatible with the site or surroundings.

The ordinance lacks an exception process except for maximum floor area of new or expanded single-family homes. This can be very limiting and inequitable, particularly for owners of homes that were built prior to the Hillside Ordinance and are left with no ability to expand, even though the environmental and visual qualities that the ordinance seeks to protect have long since been compromised.

Staff is requesting the Design Review Commission and Planning Commission consider the issues presented and provide a policy recommendation to the City Council regarding the Hillside Ordinance.

**ATTACHMENTS**

1. Division 19.26 (Hillside and Ridgeline Preservation Ordinance)
2. Analysis of Existing Developed Commercial and Residential Hillside Sites
3. Analysis of Larger Undeveloped Hillside Sites
4. General Plan Map EN-3: Scenic Resources
Planning Commission Meeting
Location: Novato City Hall, 901 Sherman Avenue
February 2, 2015

REVISED MINUTES
Change indicated by italics and underlining

Present: Dan Dawson, Chair
Peter Tiernan, Vice Chair
Curtis Havel
Robert Jordan
Leslie Salazar
Jay Strauss
Susan Wernick

Absent: None

Staff Present: Bob Brown, Community Development Director
Elizabeth Dunn, Planning Manager
Veronica Nebb, Assistant City Attorney

CALL TO ORDER / PLEDGE OF ALLEGIANCE / ROLL CALL

The meeting was called to order.

APPROVAL OF FINAL AGENDA:

M/s, Tiernan/Strauss, Ayes 7 (Dawson, Havel, Jordan, Salazar, Strauss, Tiernan, Wernick), Noes 0 to approve the final agenda.

PUBLIC COMMENT: None

CONSENT CALENDAR:

1. APPROVAL OF PC MINUTES OF JANUARY 20, 2015 (DD, PT, CH, RJ, LS, SW)

M/s, Tiernan/Jordan. Ayes: 6 (Dawson, Havel, Jordan, Salazar, Tiernan, Wernick), Noes: 0, Absent: 0, Abstain: 1 (Strauss), to approve the minutes of January 20, 2015.

CONTINUED ITEMS: None
NEW ITEMS:

2. DISCUSSION OF THE COMMUNITY IDENTITY CHAPTER OF THE GENERAL PLAN (ED)

Planning Manager Dunn addressed the Commission to discuss the review process for the evaluation of policies and programs in 1996 General Plan. While the purpose is to streamline the General Plan so it’s easier for the public and staff to read, and easier for staff to implement and monitor, the Council’s direction was to use as much of the 1996 General Plan as appropriate.

The Community Identity chapter of the General Plan is being discussed tonight. The chapter was reviewed by staff, creating a table with information on each existing policy and program as to accomplishments since 1996, reasons programs may not have been implemented, and recommendations to retain, modify or delete each. The Design Review Commission provided comments at its meeting on November 19, 2014, and a two person subcommittee of the Planning Commission reviewed this document. Below are the comments from the Planning Commission on the Community Identity Chapter of the General Plan:

- Policy 1: Ok with staff’s response
- Program 1.1: Ok with staff’s response. A question was asked about whether a form-based code for the Northwest Quad would be implemented. This could be an outcome of the workshop for the Northwest Quad area, but it’s too early to say if there is interest by the neighborhood for this kind of fine grained design plan.
- Policy 2: Ok with staff’s response.
- Policy 3: Ok with staff’s response.
- Program 3.1: Ok with staff’s response.
- Program 4.1: Clarify that this program is being retained, as staff’s initial recommendation was to remove this program. Discouraging the use of sound walls/walled subdivision would be included in design guidelines versus as a separate policy or program.
- Program 6.1: Okay with staff’s response. Comment to ensure a buffer or transition between adjacent land uses (e.g.: residential and commercial)
- Program 7.1: Ok with staff’s response
- Policy 8: Ok with staff’s response.
- Policy 9 (and 10): Combine Policy 9 and 10 into one policy. Staff to clarify between undergrounding of new and existing utility lines.
- Policy 11: Ok with staff’s response.
- Policy 13: Ok with staff’s response.
- Policy 21: Ok with staff’s response.
- Policy 23: Retain this program, and clarify drive through uses.
- Policy 24: Ok with staff’s response.
- Policy 25: Ok with staff’s response.
Public Comments:

One member of the public spoke on the concern of Program 6.1© being eliminated and rolled into Program 1.1. This speaker also questioned what a better material than wood would be for fences along Novato Boulevard. The Planning Commission would not endorse wood walls on a thoroughfare like Novato Blvd.

3. **PRESENTATION OF THE HILLSIDE/RIDGELINE PRESERVATION WHITE PAPER (BB)**

Community Development Director Brown gave a powerpoint presentation on the Hillside/Ridgeline preservation white paper. This presentation included examples of commercial and residential projects that have been built before and after the Hillside/Ridgeline ordinance has been in place.

The Director posed four questions to the Planning Commission where new programs would be created in the General Plan to:

1. Map the ridgelines or a better definition of a ridgeline. The 7-0 straw poll from the Commission was to create a better definition of a ridgeline.
2. Create an exception process. The Commission endorsed an exception process for residential properties developed prior the Hillside/Ridgeline Ordinance. A 5-2 vote of the Commission was to also allow an exception process for non-residential uses, with Dawson and Havel voting “no”.
3. Retain the 4,500 square foot limit for new residential construction. The Commission endorsed the current square foot limit, and didn’t recommend revising this for new residential construction.
4. Change the slope when the Hillside/Ridgeline Ordinance applies, from 10% to 15%. The Commission endorsed retaining the existing slope of 10%. Commissioner Tiernan indicated he could endorse 10% for residential, and 15% for non-residential development.

**GENERAL BUSINESS:**

Director Brown discussed the schedule for General Plan evaluations going to the City Council for discussion. Additionally, a discussion about upcoming public workshops for the Northwest Quad, and other ways to engage the community occurred. New development projects that have been submitted, and anticipated development projects were discussed.

**UPCOMING AGENDAS AND QUORUMS:** (STAFF)

Staff discussed the upcoming Commission calendar.

**ADJOURNMENT:**

Adjourned by the Chair at 9:45pm.
Design Review Commission Meeting
Location: Novato City Hall, 901 Sherman Avenue

January 21, 2015

MINUTES

Present:  
Joseph Farrell, Chair
Marshall Balfe
Patrick MacLeamy
Steven Hall

Absent:  
Beth Radovanovich, Vice Chair
Michael Barber

Staff:  
Bob Brown, Community Development Director
Steve Marshall, Principal Planner

CALL TO ORDER / ROLL CALL:
Chair Farrell called the meeting to order at 7:40 p.m.

APPROVAL OF FINAL AGENDA:

M/s: MacLeamy/Balfe
Motion passed: 4-0-1

PUBLIC COMMENT:

CONSENT CALENDAR:

1. APPROVAL OF DRC MINUTES OF DECEMBER 17, 2014 (JF,MB,PM,MB,SH)

This item was continued to the next Design Review Commission hearing.
PUBLIC HEARING

CONTINUED ITEMS:

NEW ITEMS:

2. PRESENTATION OF THE HILLSIDE/RIDGELINE PRESERVATION WHITE PAPER (BB)

Community Development Director Brown presented the Hillside/Ridgeline Preservation White Paper.

Commissioner MacLeamy inquired about the potential risk of a takings claim due to restrictions of the Hillside Ordinance, and whether there was any regulatory exception available in such cases.

Director Brown commented that takings issues are difficult because there is no “bright line” with respect to the loss of economic value.

Principal Planner Marshall indicated he recalled the Hillside Ordinance contains a provision allowing a single-family residence of a minimum of 2,000 square feet on any residentially or mixed use zoned hillside parcel, but not for commercial/industrially zoned parcels.

Commissioner MacLeamy asked about the possibility of normalizing the density levels in the General Plan with those allowed by the Hillside Ordinance.

Director Brown noted the General Plan applies to all parcels in the City, not just those that may be subject to the Hillside Ordinance.

Commissioner MacLeamy asked about possibly rezoning commercially designated parcels on steep slopes to low density residential zoning.

Principal Planner Marshall noted the issue of commercial versus residential development was studied. In most instances, whether residential or commercial the total amount of floor area was generally the same. However, commercial development demands much greater levels of parking, which results in more intensive grading on hillside parcels.

Director Brown indicated that in many instances it would not be appropriate to rezone commercial sites to residential use due to context related issues, such as being located adjacent to U.S. 101.

Director Brown stated it might be better to start commercial FAR levels at the low-end and offer some flexibility to increase floor area based on a set of criteria.

There were no other questions from the Commission.

The public comment period was opened.
Hutch Turner, Canyon Road, addressed the Commission. Mr. Turner inquired as to whether developers are allowed to cut and fill on hillside parcels. He also asked whether an FAR bonus for underground parking was tied to the State Density Bonus for affordable housing.

Director Brown confirmed the Hillside Ordinance allows cut and fill grading.

Director Brown explained the State Density Bonus would take precedence over the standards of the Hillside Ordinance. However, any request for a density bonus concession would still need to be considered in light of any environmental consequences and subject to design controls.

The public comment period was closed.

Commissioner MacLeamy asked about the development at Canyon Green and how the average slope figure was developed considering the site has a flat area and a steeper sloped area.

Principal Planner Marshall explained the entire topography of the parcel would be used to calculate the average slope. He noted two methods of generating an average slope, including a traditional rise over run calculation for a site with a uniform slope to a more involved slope contour measurement method.

Commissioner MacLeamy asked if there are other cities that use a ridgeline map to avoid conflict over a definition of a ridgeline.

Director Brown noted the City of San Rafael uses such a map. Novato could prepare a similar map. However, there needs to be time and political will to work through a map that would likely generate controversy.

Commissioner Hall asked about the residential unit size limit contained in the Hillside Ordinance.

Commissioner MacLeamy explained the home size limit and other standards were intended to reduce imposing mass in a hillside setting and encourage stepped home designs.

Commission Comments on Staff’s Policy Recommendations

Commissioner MacLeamy noted the Hillside Ordinance is fairly rigid, perhaps some changes are warranted. He recommended:

1. Develop a ridgeline map. The definition approach offers too much gray area;

2. Does not support additional FAR flexibility for non-residential properties; supports flexibility for greater residential FAR for homes built prior to the Hillside Ordinance with some form of guiding criteria;

3. Fine to clarify that the existing exception for single-family FAR also includes exceeding the 4,000 sq. ft. maximum dwelling limit.
4. Opposes raising average slope threshold; 10% average slope should remain.

Commissioner Balfe indicated he shared mainly the same sentiments as Commissioner MacLeamy:

1. Supports development of a ridgeline map.

2. Supports notion of creating exceptions process for residential units constructed prior to inception of Hillside Ordinance. Not so inclined to support exceptions for commercial development.

3. Supports clarifying the exception to maximum residential home size, but don’t let size get out of control.

4. Continue with 10% average slope threshold for commercial; considering increasing average slope for residential to 15%.

Commissioner Hall made the following comments regarding staff’s four recommendations:

1. Supports development of a ridgeline map.

2. Supports notion of creating exceptions process for residential development prior to inception of Hillside Ordinance.

3. Supports clarifying the exception to maximum residential home size, particularly for existing residential units that pre-date the Hillside Ordinance.

4. Continue with 10% average slope threshold for commercial and residential.

Chair Farrell made the following comments:

1. Supports going with a ridgeline map.

2. Agrees with less exceptions for commercial development; give a little more flexibility to additions and remodels of existing residential units that pre-date the Hillside Ordinance.

3. Agrees with clarifying the exception to consider larger home size.

4. A 10% average slope threshold is too low for residential. It is burdensome on staff and a waste of client money to apply the Hillside Ordinance to sites with an average slope of 10%. A 15% average slope for residential development would be okay; a 10% average slope is fine for commercial.

**PROJECT DESIGN WORKSHOP:** None.
**GENERAL BUSINESS:** None.

**ADJOURNMENT:** The meeting was adjourned at 9:00 p.m.