

County of Santa Clara

Department of Planning and Development
Planning Office

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STAFF REPORT
Planning Commission
July 6, 2006

Item #1

File: 8630-00-00-03GP-03Z

Viewshed Protection Study Recommendations

- 1) General Plan amendment to Growth & Development Chapter, Rural Areas, regarding policies for Design Review, Grading, Steep Slopes, Ridgeline development issues;
- 2) Zoning Ordinance text amendments to Ch. 5.50, Design Review, Ch. 3.20, Design Review Combining Districts, and Ch. 1.30 Definitions;
- 3) Zone change to apply -d1, Design Review zoning to lands in primary viewshed areas (approximately 1-2 miles from valley floor).

Staff Recommendation: Favorable recommendation to Board of Supervisors.

Applicant:	County of Santa Clara
Location:	Countywide
APNs:	See master list for Zoning Map amendment
Gen. Plan Designation:	Hillside, Ranchlands, Rural Residential, Agriculture-Medium Scale
Zoning District:	HS, AR, RR, A-20ac. (base districts)
Parcel Area:	Approximately 4,000 acres for Zoning Map amendment
Supervisory Districts:	#1, 2, 3, and 5

Staff report prepared: June 23, 2006

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PROJECT / PROPOSAL DESCRIPTION

The project includes a set of specific recommendations based on work done to date regarding the County's Viewshed Protection Study. This study, a major part of the Planning Office's work plan, has included:

- a pilot study with the City of Morgan Hill,
- a countywide viewshed mapping analysis,
- a major report to the Board of Supervisors (Board) in April of 2005 outlining preliminary recommendations,
- an August 2005 all-day land use workshop with the Board of Supervisors,
- a series of six stakeholder committee meetings during January and February of 2006, including the public,
- three major community meetings in March 2006, attended by 250-300 each meeting;
- and periodic status reports and updates to the Board, and to the Housing, Land Use, Environment, and Transportation (HLUET) Committee; and,
- a status report and discussion for the Planning Commission at a workshop meeting in April of 2006.

The components of staff's recommendations to complete this study include the following:

- 1) a General Plan amendment (GPA) to the Growth & Development Chapter, Rural Areas, to include background context and policies for the use of design review, for grading, and policies concerning development on steep slopes and ridgeline areas;
- 2) Zoning Ordinance text amendments to Ch. 5.50, Design Review, Ch. 3.20, Design Review Combining Districts, and Ch. 1.30 Definitions;
- 3) Zone change to apply -d1, Design Review zoning to lands within the primary viewshed areas, those most immediately visible from the valley floor, including the first ridge or areas approximately 1-2 miles distant from the edge of the valley floor.

Additional revisions and clarifications to the County Design Review Guidelines are also anticipated, but due to the need to expedite completion within the summer or early fall of this calendar year, those revisions will follow.

RECOMMENDED ACTIONS

A. Actions Concerning Environmental Determinations and Findings

Environmental review and documentation will be prepared for public hearings before the Board of Supervisors. No California Environmental Quality Act (CEQA) determination is necessary to forward a recommendation to the Board of Supervisors.

B. Actions Concerning the Project Proposal

1. Recommend that the Board of Supervisors adopt the proposed General Plan amendment (GPA), Zoning Ordinance text amendments, and zoning map amendments to apply the "-d1" Design Review combining zoning district.

2. Recommend that the County evaluate the viewshed-related Zoning Ordinance revisions and Design Guidelines within 18-24 months following approval, to consider any changes that may be appropriate to enhance effectiveness, provide necessary flexibility, or improve clarity.

REASONS FOR RECOMMENDATION

A. Reasons for Recommended Actions Concerning Environmental Determination

1. The project builds upon and reinforces existing policies and regulations intended to conserve resources, improve environmental protection, reduce impacts from development, and enhance the visual quality of the environment, consistent with existing goals, policies, and implementation recommendations of the General Plan.
2. Staff anticipates recommending that CEQA review requirements can be satisfied through reliance on the use of a prior CEQA document, the Environmental Impact Report prepared and certified for the 1994 General Plan.

B. Reasons for Recommended Actions Concerning Proposals

B1: Proposed General Plan Text Amendment

1. The proposed General Plan text amendment follows the preliminary recommendations to augment existing policy on various hillside development issues. The proposed content, background, and policy statements are based on and generally reflect existing policies and regulations.
2. The proposed amendment to the "Growth & Development Chapter" for rural unincorporated areas would add valuable and necessary context, information, and policy guidance on regarding the use of design review, grading policy, development on steep slopes, and ridgeline development.
3. Proposed ridgeline development policies are based on those previously contained within the Scenic Resources section of the Resource Conservation chapter, with necessary elaboration. They address both subdivision and development of existing legal lots. As discussed in the preliminary recommendations and reports, the Planning Commission and Board of Supervisors are presented with two options for ridgeline policy for new development.
 - a. The first, drafted along the lines of existing policy, would encourage alternatives to ridgeline locations for existing lots, emphasizing the limitations that already are in force through existing grading requirements and findings. For subdivisions, the policy would remain that land should be divided, if at all possible, to avoid ridgeline development, but taking into account other factors, such as habitat, geology, slope, and similar matters.
 - b. The second option is more explicit and restrictive, in that it would generally prohibit new ridgeline or hilltop development, unless it would preclude all reasonable use and development of a an existing lot.

Whatever ridgeline policy choice is selected, some flexibility is ultimately required to accommodate the use and development of a residence, if there is no other feasible location, and a ridge location satisfies all applicable development standards, and grading and access standards are better met.

B2: Proposed Zoning Ordinance Text Amendments

4. The proposed text amendments to Chapter 3.20, the Design Review Combining Districts, follows the preliminary recommendations of the previous reports, reflects the input received from the stakeholder committee, previous direction from the Board of Supervisors, and community meetings.
5. The primary recommendation is to adapt and improve the existing "-d1" Zoning District to serve as the primary viewshed protection Design Review district. This approach provides a more universal, comprehensive approach to viewshed areas countywide, without proliferating the number of additional, distinctive Design Review districts. Staff recommends against the proliferation of a significant number of additional districts enumerated "-d3," "-d4," "-d5," each with their own varying standards for height, color, and other limitations.
6. Significant changes include the proposed use of tiered review to ease review and permitting of small to moderate sized homes and structures (up to 5,000 sq. ft.), while using a more rigorous "Tier 3" review for the largest new homes (12,500+ sq. ft.) having the potential for greatest impacts. Revisions also include a more effective 45 Light Reflectivity Value (LRV) or brightness standard for exterior surfaces, reinstating the standard 35 foot height limit to enable more diverse architectural styles, variety, and flexibility depending on the site, and new emphasis on standards for retaining walls. During public review, some have argued that a tiered review process is not necessary, but most believed the overall benefits are of value, for the following reasons:
 - a. The viewshed hillsides are dotted in places with varying sizes and densities of homes. Most are older and in the size range of 3-6,000 square feet. The incremental addition of a few more homes each year over time, with appropriate minimum standards, will not make an appreciable difference in the visual landscape.
 - b. Public, officials, property owners and staff all continuously emphasize a desire to utilize incentives and reduce regulatory burdens. A Tier 1 level review such as that which staff proposes eliminates the additional costs and time involved with a public hearing process for Design Review approval. It does not eliminate the need for building site approval or grading permits, where those would be a necessary prerequisite.
 - c. The proposed Tier 3 level of review places the greater emphasis on visual impacts of very large development proposals. It does not place a fixed limit on house size, which retains flexibility for property owners and designers. Instead it emphasizes careful siting choices, articulation of design, house orientation, landscaping, and other means of addressing visual impacts that can be as effective or more so than a mandatory house size limit.
7. An explicit exemption for sites not visible from the valley floor is proposed, consistent with the goals of the Viewshed Protection study and stakeholder recommendations. Rebuilding provisions are carried forward from the original "-d1" regulations, with clarifications.
8. There are no changes proposed to the "-d2, Milpitas Hillsides" zoning district, other than to standardize the 45 LRV requirements. All other provisions remain, but may be reconsidered in the future if the Board so directs. No other significant revisions to the "-d2" district provisions are recommended at this time.

9. Various other Zoning Ordinance text amendments would simplify floor area definitions, exempt basement space that doesn't qualify as an above-ground story, and update the standard and discretionary exemptions from Design Review wherever Design Review is required. These and the Tier 1 level review provisions, among other proposed policies and standards, provide additional flexibility for both the County and property owners. They should also reduce costs and time delays for owners, without compromising overall effectiveness. Many applications for discretionary exemptions have historically been reviewed and granted for house additions that are not visible from off-site, much less the valley floor. Additions should also be designed to match the existing style of a structure, as much as possible. The revised exemptions allow minor projects with typically little or no significant visual impact to be expedited, while better enabling the County to review and focus on larger development projects with the most real impact potential.

B3: Proposed Zoning Map Amendments to apply "-d1" Viewshed Protection Zoning District to Primary Viewshed areas.

10. A modified "-d1" combining zoning district for viewshed protection is proposed for those areas defined as the primary viewshed, lands closest to and most immediately visible from the valley floor, including the first ridge and/or lands approximately 1-2 miles from the edge of the valley floor.
11. The primary viewshed has been the traditional area of focus where Design Review zoning has been applied historically by the County. The current proposal is consistent with and builds on that approach.
12. For many of the lands beyond the primary viewshed, typically 3-4 miles distant from the valley floor, it is often the case that only the more steep or highest portions of a parcel are visible. Development potential on these portions of a mountainous lot are already limited to a significant extent by existing site approval and/or grading requirements, particularly access requirements. In many cases, only a very small percentage of the property is visible, and then from distances of well over five miles. Many members of the public questioned the need for additional Design Review regulations for these more remote parcels, in light of the existing high standards that apply through the Building Site Approval/Grading Permit process typically involved.
13. Applying Design Review zoning initially just to the primary viewshed, consistent with the County's historical approach, rather than including all parcels with any degree of visibility, would be the most cost-effective approach for private property owners and the County.
14. As with the initial enactment of the "-d1" district, the County should evaluate any new regulations or standards for effectiveness, appropriateness, and clarifications. These recommendations include a review in approximately 18-24 months. If the Planning Commission and Board of Supervisors wish to make any changes, including the extent of the use of Design Review for viewshed protection, such direction can be provided at that time.

BACKGROUND

Project History

Much of the project history has been documented in previous reports too lengthy and detailed to be included as attachments to this report. A synopsis is as follows:

- Board of Supervisors adopts Design Review Zoning in the late 1980s to provide for similar type of discretionary review of hillside development and visual impact mitigation as that which a number of cities employed.
- Board updates and adopts the General Plan in 1994, including implementation recommendations to further evaluate the need for Design Review zoning and/or other means of addressing visual and environmental impacts of development for scenic resource areas.
- Work Plan for County Planning Office drafted and adopted in 2002 to commence work on a number of new legislative priorities, and facilitate completion of many in-process projects. Viewshed Protection Study assigned high priority.
- Work on the study began with a pilot project with City of Morgan Hill on a greenbelt study that included Geographic Information System (GIS) mapping of viewshed lands, and preliminary recommendations from staff and a citizen committee. Periodic reports were provided to the HLUET Committee.
- Countywide mapping analyses followed, and a major report and presentation to the Board in April 2005. A Board land use workshop in August 2005 followed, with the Board unanimously accepting the preliminary recommendations of those reports regarding the viewshed study.
- Subsequent to the August workshop, a schedule for completing the study in summer or early fall of 2006 was approved in October of 2005.
- Staff conducted a public outreach and information process in the Spring of 2006, as directed by the Board (see next background section for more information).
- Staff began work on draft work products in fall of 2005, and resumed work on those products following the public outreach meetings. A status report was requested and provided to the Board May 23, 2006.
- Initial public hearings before the Planning Commission were scheduled for July 6, 2006.

Public Outreach

Public outreach has been conducted in three main ways, a formal stakeholder meeting group, three large community meetings with notice to all potentially affected property owners within identified viewshed areas, and extensive publication of information and reports of the Planning Office website, www.sccplanning.org.

The schedule originally included a series of informal meetings with various stakeholders, including property owners. Interest was great, resulting in a more prolonged and formalized series of stakeholder meetings beginning in late January through the end of February. The Board of Supervisors each appointed a member of this ad-hoc committee, and staff invited property owner representatives, as well as designers, engineers, and architects with experience in hillside development to participate in these preliminary discussions and provide special technical advice and insight from practitioners.

The intent was to employ the stakeholder committee much in the way business employs focus groups or small task forces to help develop possible proposals and direction. The committee made no formal report or recommendations. Staff documented the discussions and published these to the website. The committee provided a very useful and effective way of hearing a variety of issues, concerns, and developing possible recommendations. However, it extended the public review process by an additional month and a half.

In public dialogue since the committee meetings concluded, some hillside property owners have criticized the committee make-up and process as having only had one property owner as a formal representative. The Board intended the stakeholder committee, once it began to evolve into a more formal group, to represent as many viewpoints as possible. The meetings were open to the public, and as meetings progressed, more and more property owners attended, and all participated in the discussions. Attendance averaged approximately 25-30, with the majority being private property owners. No one was denied the opportunity to comment or address issues of concern. Staff believes the Stakeholder Committee was as open and inclusive as it could be while fulfilling the purposes of the Board to have many viewpoints represented, and to provide a manageable forum for discussion preliminary to the larger community outreach meetings.

Three major community outreach meetings were held, with notice provided to each potentially affected property owner. The Santa Clara County Hillside Association, a group of private property owners, also disseminated notice of these meetings to all owners throughout the rural hillsides of Santa Clara County. Each meeting was attended by 250-300 people; included a staff presentation, and extensive comment opportunity. Staff published detailed summaries of all public comments received at each meeting, and provided recordings of two of the three meetings to the Board of Supervisors (at one meeting, the recording device failed to record the meeting). The summaries of these meetings were published to the County Planning Office website, and summarized in the May 23, 2006 status report to the Board.

Notice Provided for Planning Commission Hearing

For public notice of the Planning Commission meeting staff provided the following forms of notice. These actions meet or exceed required noticing requirements.

- individual property owner notification mailed to the owners of each property proposed to be included in "-d1" zoning districts for viewshed preservation;
- advertisement placed in the San Jose Mercury News of at least one-eighth of a page;
- Planning Commission agenda publication in San Jose Post Record (customary means of agenda publication) and other required postings;
- publication of reports and agenda to the Planning Office website; and,
- email notification to those who have provided email for this purpose.

Next Steps

The Planning Commission must hold at least one public hearing regarding the proposed General Plan amendments and Zoning text and map amendments. The purpose is to consider staff recommendations, public comment, discuss and form a recommendation to the Board of Supervisors. If a second meeting is required, the July 6, 2006 meeting would be continued to the August 3, 2006 Planning Commission agenda. No additional noticing of the continued hearing is required. Board of Supervisors hearings will be scheduled as soon after the Planning Commission completes its deliberations. The Board has expressed a keen desire to

complete the public review and hearing process without further delays, given the length of the project to date.

ATTACHMENTS

- A. Proposed General Plan Amendment to the Growth & Development Chapter, Rural Unincorporated Area Issues and Policies, "Strategy #3: Ensure Environmentally-Safe and Aesthetic Hillside Development."
- B. Proposed Zoning Ordinance text amendments to Chapters 3.20, 5.50, and 1.30 of the Zoning Ordinance, implementing proposed regulations related to viewshed preservation.
- C. May 23, 2006 Status Report to the Board of Supervisors
- D. Stakeholder Committee Meetings Summary
- E. Proposed map of primary viewshed lands for which the "-d1" Design Review Zoning District is proposed.

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