

## **Viewshed Protection Plan Stakeholder Committee Meetings: Final Summary of Meetings 1-6, rev. March 7, 2006**

This overview and summary of the stakeholder committee meetings documents the meeting topics and input from committee members and public. All meetings have been held from 3-5pm in the main Conference Room of the Planning Department, 7<sup>th</sup> Floor, East Wing, County Government Center, 70 W. Hedding St., San Jose.

### **Meeting #1, January 24, 2006**

The initial stakeholder meeting was held January 24<sup>th</sup> to address the following subjects:

- Overview of Viewshed Protection Plan as a Board-directed work plan item and role of the stakeholder committee;
- Overview of topics and schedule for meetings 1-4;
- Overview of mapping analysis done to date to identify potential areas of interest for viewshed protection;
- Review and discussion of primary recommendations for potential Design Review zoning tailored for mitigating visual impacts of hillside development and "Tiered-Review" concepts; and,
- Discussion of potential changes for Design Review exemptions.

Information regarding the purpose of the Board-directed study has been published on the Planning Office website. The stakeholder committee's purpose as defined by the Board is to provide preliminary input and feedback from those with a variety of points of view, including property owners, to better inform and shape the possible range of recommendations or options presented to the Board in final reports. Additional information regarding viewshed mapping is also contained in reports posted to the website.

### **Tiered Review Concept**

The primary recommendation of the reports accepted to date by the Board and in response to referrals and memos from the Board is to assign a form of Design Review zoning district to designated viewshed parcels and consider a form of "tiered review" process to segregate small to moderately-sized development projects from larger or more conspicuous ones likely to have the most visual impact. For projects falling within the requirements of Tier 1 level review, no public hearing would be required, and plans would be approved through Zoning Administration staff, documentation of plan requirements, and development authorized through issuance of a building permit. Staff presented the rationale for the "tiered review" process, which includes (a) reduced regulatory burden on property owner; (b) reduced review and approval time, with no threat of appeal delays; and (c) more effective use of staff resources concentrating on larger projects with potential for more significant visual impacts. It is also the case that even if small to moderate, well designed new structures were subject to the full Design Review and hearing process, the special conditions or requirements that would typically result through conditional approval would consist of the same or similar

requirements being considered for Tier 1 level approvals, such as LRV limits, moderate landscaping, and other conditions, as appropriate.

Staff outlined some of the design criteria or standards which might be used to define Tier 1 projects, including house size limited to 4,500 square feet of habitable area, or 5,000 square feet including garage; 2 stories, with basement below grade excluded from floor area and number of stories; light reflectivity value of 40-45, maximum uninterrupted wall plane heights of 20-25 feet, and possible length of façade limits for the elevations facing the valley floor.

A number of useful comments were provided, which are listed below:

- Concern that Tier 1 projects that might be exempted from the hearing process would not benefit from the public dialogue, information-sharing, and neighbor property inputs derived from the public review and hearing process, even for small projects.
- Possible trade-offs between expediting small project approvals and encouraging project designs that are intended to achieve the most minimum standards necessary to achieve approval under Tier 1 criteria, i.e., tendency to create incentives for minimalist design quality and lack of architectural distinction.
- Importance of enforcing some level of design guidelines and review that ensure some architectural design quality and distinction versus plain, unadorned, ineptly designed boxes. However, it was discussed that County's objectives are primarily intended to minimize visual impact and not necessarily to dictate architectural tastes.
- Possibility that Tier 1 cap on house size will be interpreted as an absolute maximum floor area limit for all homes, recalling the opposition to house size regulations during the process of enacting the "-d1" zoning district in the West Valley Hillside.
- Probability that "-d1" district residents have gradually come to accept existing regulations that impose a Design Review hearing requirement, reduced 30 foot building height, and LRV limits of 60 or less. Neither of these specific requirements appear to pose a major concern for property owners in "-d1" areas, but tinkering with regulations could. Owners' preference would likely be that the "-d1" provisions are in place, working satisfactorily without undue burden to property owners, and would not need to be improved or changed. Tiered approach could be perceived to have as much to do with managing workload and achieving desired aims. Staff reiterated primary rationale for tiered review is the benefit to property owners and reduced regulatory burden.
- One of the biggest headaches for applicants and design professionals is incurring major redesign costs following initial applications. Although redesign can be an inevitable part of development approval process for various reasons, it would be best to avoid it as much as possible through clear expression of requirements and expectations, standards and criteria, and consultation processes before the first designs and site planning begins. Pre-application meeting requirements as a concept met with general favor for sites with constraints or high potential visibility.
- There was limited discussion regarding the possibility of Tier 3 level review for the largest or most visible developments, with concerns expressed about it having the possible effect of imposing a size limit.

Staff indicated it would be doing follow-up with various jurisdictions employing Tiered review processes to find out how effective it has been, how well it is working, possible problems to avoid, and how they might improve their regulations in hindsight.

Discussion of Design Review exemption proposals was deferred to the next meeting.

## Meeting #2, January 31, 2006

### Design Review Exemptions

Staff gave a brief overview of the types of changes being considered regarding statutory and discretionary exemption categories. These include:

- add eligibility for statutory exemptions for building additions, detached accessory buildings, and decks over 30 inches above final grade for up to 500 sq. ft. each; also rural fences that are approximately 20% solid structure composition;
- add discretionary exemptions for additions and detached accessory buildings up to 1,000 sq. ft. as well as decks over 30 inches above grade for up to 1,000 square feet.

Staff explained that through years of experience, there are many small projects for which potential visual impact is negligible, such as additions in the rear of the building or home not visible from off the property, detached garages of just over 500 square feet, and decks just over 30 inches above grade that weather to dark gray and are not significantly visible from a short distance. More latitude should be afforded for staff to use professional judgment and site visits to grant exemptions where full hearing process would likely not result in any significant concern or need for conditional approval.

Comments and discussion are summarized as follows:

- care should be taken to not encourage fragmenting a major project into smaller projects eligible for expanded allowances for exemptions; Key issue is to avoid abuses;
- cumulative effects of exemption approvals in areas of dense development could have a more significant visual impact than imagined;
- cumulative effects of multiple exemption approvals for a single building could be problematic, so County should consider limits to the number or types of projects eligible for exemptions in a given time period or the life of the building;
- there was general concurrence with the concept of exempting these types of minimal projects, with the aforementioned concerns in mind, provided no significant visual impact would be incurred.

### Ridgeline Policy Discussion, Grading, Single Building Sites on 30+% Slopes

Staff presented information regarding current General Plan policies regarding the subject of ridgeline development, how it has been implemented over time, and options for ridgeline/hilltop development policy based on current policy and either more or less restrictive approaches. For example, to implement current policy that makes some

allowance for ridgeline locations where that is the most or only feasible development location, the General Plan requires that visual impacts be mitigated through factors such as location, construction, or landscaping so as not to create a major negative visual impact from the valley floor. These mitigations might specifically include a reduced building height and stories limits, lower LRV in the 30-40 range, some landscaping for partial screening and to blend the building within setting, as feasible.

Some ridge or hilltop placements may limit landscaping as an effective mitigation due to limited depth to bedrock, high winds, or other factors, placing greater emphasis on other mitigations. An example of a more restrictive policy and implementation is in the Milpitas hillsides where the County's "-d2" zone does not allow a building to protrude above a perceived ridgeline as viewed from designated vantage points on the valley floor. Also, staff indicated that eastern hillsides exhibit more readily identified and discernable ridgelines aligning generally parallel to the edge of the valley floor. In other areas and western hills, there is less regularity and continuity to ridgelines, and their orientation is not exactly parallel to valley floor edges. More specific mapping will be provided through the next meetings.

Staff also discussed the findings of the Grading Ordinance, that generally require grading be allowed only if it is that which is minimally necessary and appropriate to establish a permitted use. That policy direction is intended to guide development away from higher elevations on a property when lower, less visible, more accessible locations are feasible and require demonstrably less terrain alteration and have fewer possible environmental impacts. Current Building Site Approval regulations for single sites also require that building on slopes of 30% slope or more be discouraged or prohibited unless an exception is granted through the authority of the Architecture & Site Approval Committee. However, these provisions currently apply only in three named base zoning districts, R1E, RHS, and HS. Staff indicated it would evaluate whether these provisions should apply more generally or if R1E is still applicable.

Comments included the following:

- Within areas most highly visible from the valley floor, ridgeline protection is a key area of concern;
- Property owners expressed significant concern about affects on property values and desirability of hillside parcels if County were to significantly restrict options for ridgeline and hilltop development, and further indicated that in certain locations, a ridgeline location may have less impact and affect on the landscape due to reduced grading;
- Down slopes from a ridge may in some instances be severe, affecting the amount of engineering and terrain alteration necessary to support a house;
- Geologic stability may affect placement options as much as any other factor, with hilltops and ridgelines at times being a more stable location than surrounding slopes affected by landslide hazard, soil creep, or other factors;
- General distance from the valley floor needs more attention than given in the past, as distances over 2 miles greatly diminish the apparent mass and impact of a structure on or near a ridgeline;
- At certain very remote distances, even large structures may have limited visual impact from valley floor, such as Mt. Umunhum or Lick Observatory on Mt. Hamilton;

- If County establishes more definitive policy on ridgeline and hilltop development, more explicit and easily accessible standards or criteria are needed to ensure public and property owner awareness, and to communicate prior to development applications what is expected;
- Improved and clearer policy statements, grading findings, and site approval findings would provide better guidance to staff and public.
- Grading Ordinance findings to minimize grading should take into account that excavation to site a home within the hillside rather than through use of fill places bulk out of sight, results often in a more stable homesite and foundation, even if grading amounts may increase. County should exempt such grading from consideration if it better achieves reduced visual and environment impact.

Staff indicated more detailed mapping will be provided at the next meeting, and indicated that should the Board desire more restrictive policies, the exact properties and ridgelines affected by those policies would need to be precisely mapped and identified. Other jurisdictions with more restrictive policies have such maps, but they are typically concerned with a much smaller affected area, such as the viewshed or hillsides of a particular city. Mapping such ridges and spurs on the west valley hillsides will be a more demanding task than on the east side.

### **Retaining Walls**

Much of the visual impacts from past developments that have created concerns about viewshed development involve retaining walls for cut slopes, access and turnarounds, and for extended foundations for the home or building itself. Retaining walls above grade may often be a necessary part of development in any hillside location. However, more jurisdictions are requiring similar visual impact mitigation for such structures as they would for buildings, such as LRV, material selection that blends with natural features and terrain, landscaping with vines or other plants, and limits on continuous wall plane heights.

- Grading Ordinance currently requires some planting for engineered slopes for both erosion control and slope stability, could be extended to condition appearance of walls in some locations to blend with landscape;
- Stepped retaining walls or slight offsets may be desirable to limit extent of wall plane;
- Height of wall can be a factor of desired slope ratio for engineered slopes, and there can be a trade-off between the slope steepness allowed and need for larger walls.
- Material selection for wall coverings could help mitigate impacts.

Overall, there was consensus that existing Design Review and Grading Ordinance requirements can be used to mitigate to some extent, but that some more explicit requirements in the form of guidelines or standards would also help set expectations for site designers and applicants.



### Ridgeline Policy Discussion – continued

Meeting #3 provided an opportunity to further discussions from Meeting 2 on the subject of ridgeline identification and policy options. Staff presented maps of the east side and west side hills with preliminary identification of affected parcels within the primary viewshed areas and secondary viewshed areas. Maps also contained preliminary identification of major ridgelines for consideration on east hillsides, and partially for west hills.

Staff offered the following working definitions for primary viewshed areas, secondary viewshed areas, and ridgelines:

- **Primary Viewshed:** hillside lands within the viewshed having the highest visibility ratings and most immediately visible from the valley floor, including lands up to and including the first discernable ridge. Generally encompasses lands within a 1-2 mile band or area from valley floor edge.
- **Secondary Viewshed:** lands visible from valley floor but lying beyond a discernable first ridge, having generally lower relative visibility, and containing ridges more distant than first ridge. Generally encompasses lands up to 3-4 miles distant from valley floor edge. Lands beyond 4 miles distant are generally too remote for the development to have a significant visual impact as seen from valley floor.
- **Ridgeline:** a long, narrow elevation of land or range of hills or mountains. The most prominent ridgelines as viewed from valley floor are those that generally define the horizon seen from most of the urbanized areas of the valley floor or rural valley lands. Perceived ridgeline location may vary depending on proximity of vantage points.

Staff indicated that historically County policy and Design Review zoning has been focused on primary viewshed areas most immediately visible from valley floor. The distinction is an important one in terms of the total number of affected parcels, and to help with evaluations for the extent to which any new policies or regulations may apply.

Comments and suggestions included the following:

- Concept of evaluating remoteness or distance from valley floor is an important one, because perspective and distance do much to attenuate visual impact. Even a moderate size home on a ridge 4-5 miles distant may only be visible, if at all, from a vantage point on the valley floor within the interior of the valley, not visible from the immediate edge of the valley floor. From closest locations to hillsides, more remote locations can be blocked from view by immediate hills and tree canopies.

- Furthest ridges, such as Summit Road area in Santa Cruz range, is at places 4-8 miles distant from valley floor.
- Possibility was raised to expand viewshed analysis to include vantage points from roadway corridors in addition to valley floor. Could significantly expand the scope of the present study, which has as its basis current General Plan policy that valley floor is the primary area of focus, where scenic resource protection affords the most general public benefit. However, scenic and major road or other vantage points have and could be the subject of additional future studies, depending on interest of the Board.
- Study of viewshed areas from some key road corridors could complement valley floor analysis, and weighting of visibility ratings depending on vantage points is possible through the GIS. However, for some road corridors, the viewshed is more limited than might be expected, such as I-280, or portions of Rt. 152 East and West. With thousands of vantage points used in the current analysis, staff believes that the vast majority of hillsides that make up the most visible backdrop or setting for most of the County's residents and workers have been adequately identified.
- Staff was questioned as to whether computer simulation could be used to show the difference in visibility between a house at one mile versus two or three miles distance to illustrate differences in impact. Staff indicated such examples would be used to help decision-makers visualize differences based on distances.

#### **General Hillside Development Issues:**

Staff and the Committee also returned to the subject of general hillside development issues, such as site design, alternative location evaluations, and retaining wall and grading design

- Pre-application meeting requirements for highly visible sites or for Tier 2 projects make sense and have value for both applicant and County.
- If pre-app meetings don't use actually surveyed plot plans with accurate slope and elevation data, resulting determinations may not be based on adequate data. Pre-application site plans should have sufficiently detailed topo to ensure quality and valid design.
- Procedures should provide applicant with reasonable certainty that staff direction given at pre-application meetings will not change. Applicants should be able to rely on information given at pre-apps to achieve a design that will obtain approval.
- Some flexibility should be retained for site-specific problem-solving. The more the County or a city relies on absolute number or standards for grading, or other factors, the more tied down both applicant and local agency may be. Staff must consider whether informal or more formal variance of deviation from standards is the more appropriate procedure, when some quantified standards seem best.
- Fire Marshall and state standards for fire retardant landscaping and defensible space must figure into site planning standards and visibility analysis. Defensible space requirements may increase.
- When a project requires a public hearing, such as Tier 2 project review, discussion often involves mostly neighborhood issues, not visibility from valley floor, because only properties within 300 feet are noticed. Staff acknowledged that this is a given for mandatory noticing requirements of state law for such discretionary permits.

More general notice must suffice for general public, given number of properties involved.

- Grading to situate a home within a hillside, using cuts rather than fills, may create more grading amounts, but can and should be encouraged to reduce visual impacts and provide more stable location. Grading findings and review should accommodate it.

### **Light Reflectivity Value Discussion**

Staff held further discussion of Light Reflectivity Value (LRV) as a brightness and color control for visual impact mitigation. LRV can be one of the most effective and least intrusive ways of achieving mitigation, blending materials and colors of buildings with surroundings and reducing the severe contrasts that have prompted calls for hillside regulations over time. East side hills and southern parts of Santa Cruz mountains have generally less trees and vegetation, and there are seasonal changes. Vegetation and tree cover of Santa Cruz mountains is darker overall and often provide sufficient existing landscaping such that further conditions are not necessary for plantings or screening.

Discussion and comments included:

- LRV standards should or could be tailored by area, with eastern hills subject to one LRV, such as 40-45, and western hills left at 60 or less, as with present “-d1” regulations and Design Guidelines.
- General preference of Board may be for universal standards, but could consider options with site-specific requirements for background color analysis.
- Some Board offices have commented directly to the effect that their perceptions are that 60 LRV limits may have been a logical starting point for existing regulations, but need to be lower to be actually effective in many instances.
- Staff distributed a photo of several homes of varying sizes in the east hills, with LRV ratings of 55, 60, and 35.

### **Building Height, Wall Planes, Story Limits**

Reduced building height limits are often considered synonymous with mitigating visual impact. Collaborative planning with various cities has in the past resulted in lower building heights for Design Review districts than the standard 35 foot height limit in the County Zoning Ordinance for most areas. Through staff’s experience, there are pluses and minuses to restricting height. Height of 35 feet can allow for more articulation and variation of roof structures, breaking up overall mass. It allows for more types of architectural styles, and the difference between 30 and 35 feet is difficult to discern at greater distances than a mile. Limits on the number of stories or stories facing the valley floor can be more effective mitigation, along with limits on continuous wall planes and retaining walls. If options include one or two story limits in some cases, a more appropriate and correlated height limit should also be included, but with allowance for proper architectural proportioning. Discussion points:

- Some cities have such greatly reduced height allowances that home designs look stunted.



- Height limits promote very low roof pitch designs, and can create proportionality problems that affect both good design and how well the choice of home style can fit within a hillside.
- Lower pitch roofs tend to favor the same Mediterranean or Spanish styles that typically correlate with high LRV, white paint, and terra cotta roofs. Applicants are then more resistant to color controls than those with other, more earth-tone architectural styles.
- Wall planes should be broken up and articulated with architectural features, landscaping to minimize the appearance of mass. Most good design guidelines architects would support that.
- Below grade floor area being exempted from house size limits for Tier 1 review and to reduce overall mass were supported.

Landscaping discussions were deferred to the next meeting.

#### Meeting #4, February 14, 2006

### Landscaping Mitigation, Limits, and Enforcement Issues

Staff discussed common approaches to use of landscaping as a condition of approval, use of landscaping plans as a required submittal following approval and prior to final inspections for building permits, some limitations where soils, slope, etc. may limit effectiveness. Landscaping is different from other building regulations and features in that it is a living organism, subject to disease, drought, lack of maintenance, and potential neglect or intentional removal or destruction. Staff provided examples from model ordinances survey, and lists of preferred or required species used by some jurisdictions to provide clear direction for tree and shrub selection.

Discussion and comment included the following:

- If landscaping is to be relied on as potential mitigation, it needs to be effective and enforced. Lack of compliance with landscape conditions is one of the most common complaints for projects approved by the department and Planning Commission.
- Owner to whom a permit is issued and conditions are first implemented is often not the problem, subsequent owners are if they are unaware or careless of conditional requirements, which run with the land and the approval.
- Some jurisdictions rely on landscape ordinances, others guidelines. Where guidelines are involved, jurisdictions look for substantial compliance rather than total adherence to all guidelines or criteria.
- Need to differentiate between landscaping required as visual mitigation and that which is up to the discretion of the property owner.
- Jurisdictions with better lists and guidance for property owners helps eliminate landscape plans that are likely to fail or not be approved.
- Where enforcement is concerned, target a success ratio or percentage, but realistically be able to accept less than 100% effectiveness or success.
- An option is to require a bond for landscaping improvements the way other major improvements require a bond, but enforcing and calling bonds to complete the work

is staff intensive from an administrative workload point of view, and complicates approvals.

- Another area of concern for enforcement is the dilution of enforcement over time with successive owners. Need a way to communicate to successor owners all the requirements and conditions that came with the original approval.
- Possible use of Post Approval Monitoring requirements and fees to enforce landscape conditions.
- Significant discussion ensued on the subject of possible use of deed restrictions, with some favoring them as a straightforward means of ensuring notice is provided to owners, but most owners on record as objecting to the proliferation of deed restrictions. Owners feel it places a stigma or cloud on the property, even though there may be many other recorded restrictions in the form of CC&Rs.
- County could consider simply recording permit approvals and conditions rather than specific deed restrictions, but possibility is that successive owners will not pay sufficient attention to key issues such as color or planting conditions in a Design Review permit. Still may be preferable to singling out a few conditions for identification in a specific deed restriction.
- County could also consider option of sending a general letter reminding owners of permit conditions and responsibilities. County could also send letters inquiring whether property owners would consider voluntarily complying with new standards such as LRV when considering repainting homes.
- Could consider possibly stiffer fines or penalties for illegal removal of a protected tree required as a condition of approval.
- In all respects, fire retardant and native species should be favored over naturalized on non-native species.

### **Light Reflectivity Value Controls, Story Poles, and Visual Simulation**

- Similar discussion about enforcement and noticing issues occurred for LRV as for landscaping.
- Conforming LRV would not likely be required for minor additions to existing homes where LRV is higher than would be permitted under new ordinances, if such are enacted.
- No building permit is required for painting, but effective enforcement is essential if LRV becomes one of the more predominant tools for blending development with the natural landscape.
- Deed restriction is a possible means of informing owners and providing for enforcement. Alternatives are recording permits and indicating requirements on building plans or permits.
- For some, deed restrictions will not alleviate the enforcement issues faced by the County, as they will only convey knowledge of the requirement, not substitute for enforcement needs.
- Story poles could be required for Tier 2 projects to help indicate location and mass of a proposed building.
- Photo-simulation has become a more controversial and suspect technology due to the ease with which results can be manipulated with computers. Not as reliable as story poles.
- If visibility from valley floor is the primary concern, in many locations story poles will only be visible from neighboring properties or nearby roads. Locations not

visible from valley floor should be exempt from requirements. GIS can help with field verification to identify such parcels.

- If story poles are only visible to neighboring properties, they could increase concerns from neighbors. If only minimally visible from valley floor areas, story poles would help verify the limited visual impact of the development as viewed from valley floor.
- There can be a discrepancy between using orange netting to outline the mass of a home represented by story poles and the much lower LRV that would be required of walls and roofing materials. Use of bright orange two-foot netting is commonplace for jurisdictions that require story poles to make sure the story pole representation of a building can be adequately seen, but it may make the building appear more alarming than it will be once constructed with low LRV and other mitigation.

Lastly, participants noted the existence of a proposed ballot initiative for Santa Clara County, and asked whether if adopted it would “wipe out” or negate the efforts of the Stakeholder Committee and staff regarding viewshed protection. Participants requested the issue be noted in the meeting summaries as a significant concern of property owners.

#### Meeting #5, February 21, 2006

#### Floor Area Definitions, Issues for Viewshed Protection, Basement Exemption

Staff presented the current definition of ‘floor area’ in the County Zoning Ordinance, its origins with the City of Los Altos’ regulations in the early 1990s, and the fact that it has remained relatively unchanged since that time. Its current provisions are based on floor area as defined by the building code and certain minimum dimensions for rooms as defined in the UBC. It also includes attached structures such as decks and balconies that are over 30 inches above grade, covered porches, and basement floor area.

Staff indicated that if floor area is to be used as a threshold for tiered review processes, a somewhat simplified and improved definition of what counts towards floor area will be necessary to make consistent and appropriate determinations of projects that may qualify for a Tier 1 level of review for viewshed areas. The preliminary figure for house size that has been considered is 4,500 square feet, based on the median house size for the last ten years of rural area construction, and the septic system ordinance requirements that increase for homes over that amount of floor area. The experience of staff has also been that where decks, porches, loggias, verandas, arbors, and balconies count towards maximum allowed floor area, most times those features are sacrificed to maximize enclosed floor area for living space, resulting in boxier, simpler designs lacking such articulation as those features might afford. Such features can help break up the mass and bulk of a building, consistent with the County’s Design Guidelines for hillside areas. Los Altos has also subsequently modified its regulations to exempt basement floor area.

Comments included:

- Owners reiterated that they do not favor regulations that would limit house size based on floor area, and requested that such companies as Cisco, which have interests in workforce and executive housing issues, should be informed and involved in these discussions.
- Porches, balconies, decks, and other features help mitigate visual impacts of large buildings and walls. They help stagger and offset wall planes to good effect.
- Tier 1 criteria should be defined for ease of use and understanding, to clearly communicate the standards involved.
- Staff should follow-up with Department of Environmental Health regarding septic requirements and house size thresholds. Make standard compatible with DEH.
- Basements that do not contribute significantly to above-grade bulk and mass of a home should not count against a set amount of floor area. Topmost floor area in attics could also be exempt.
- Porches and similar features can increase the building footprint, with some impacts, but that would not be a significant issue for larger hillside properties. Such features can also provide better solar protection and energy efficiency, such as appropriate eaves.
- Need to define basement space clearly as to what will be exempted. Specify the extent to which the basement floor area must be submerged below grade. Los Gatos' definition may be a good model.
- Los Altos Hills regulates basements such that the daylight portion of the elevation cannot face a street or valley floor. Confirm with Los Altos Hills.
- Eaves may vary in width for consistency with architectural styles. Eaves over 2.5 feet in width count in current floor area calculations.
- Consider different definitions of what counts towards floor area for hillside viewshed versus valley floor locations if objectives are significantly different.
- Explore use of incentives as well to promote good design and minimize visual impact.
- Considerable discussion occurred revisiting the concept of notice of conditions and requirements such as LRV limits to successor property owners and enforcement over time. Considerable concern was expressed over the concept of any restrictions, permits, or conditions being recorded as a means of informing future owners, real estate agents, or others of enforceable conditions of approval, such as landscaping, color controls, or other mitigations. Property owners registered major concerns over the prospects of neighbors suing neighbors to enforce deed restrictions or simply subject others with litigation for personal reasons over such permit conditions of approval. Staff indicated it would explore these matters with County Counsel.
- One suggestion included sending annual correspondence to owners reminding them of permit conditions such as LRV and landscaping, to be maintained as owners responsibility.
- Real estate transfer disclosures may provide all the notice to subsequent owners necessary under law. Due diligence requirements for buyers under California real estate transfer procedures also are substantial.
- Those currently in Design Review districts such as "-d1" are concerned about over-regulation, and the possibility that County regulations will spur attempts to annex to a city to allow subdivision not permitted under County regulations. That prospect may apply only to lands within city urban service areas. Overall reasonableness of regulations that may be proposed will be at the heart of property owners' concerns and response.



Participants requested that for the final meeting, there be further discussion of possible policy regarding control over siting alternatives, such as for ridgelines. Staff indicated that further work will also be done to refine mapping of affected areas.

#### Meeting #6, February 28, 2006

Staff provided a PowerPoint presentation of photos taken of diverse hillside properties. There was a discussion on the merit of using architectural features to break up facades. Mass and bulk requirements should include decks and skirting used to support a deck, as it tends to accentuate the height of the structure.

Staff reviewed the updated maps and mapping analysis done to date. The East and West hillside maps were displayed for this discussion. Staff explained the process involved in designating primary and secondary viewshed areas on the maps. Future mapping was discussed, including mapping of parcels with 30% slope or more, west side ridgelines and ridge properties, etc. There were questions on what were the criteria for ridgeline identification. A suggestion was made to add some key street names on the map for easy identification of parcel locations by property owners. A suggestion was made that largely developed ridgelines should be viewed differently than a pristine ridge. Property owners reiterated that building siting or placement restrictions eliminating ridge locations (most desirable for property owner) would face immense opposition. There was a question regarding rebuilding homes lost due to fire or natural disaster - would the house be allowed to be built at the original location (even if it impacts the viewshed)? Another question asked whether all ridgeline development should be evaluated using a Tier 3 level of review.

Staff presented the meeting summary for meeting #5. All meeting summaries to be posted to the website.

Staff revisited and reviewed the possibility of a Tier 3 level of review for the very largest buildings that may be proposed for sites having little or no mitigation potential (see hand out), based on location in the viewshed and house size. The purpose would be to provide a deterrent to development proposals to seek highly visible sites for the largest possible homes. Staff expressed some concern that all it will take in the future will be one monstrously large home with unmitigated visual impacts for people to question the effectiveness and fairness of policies and regulations under consideration as part of the Viewshed Protection Plan. There was discussion on the merits of requiring a minimum lot size for Tier 3 homes. That discussion ended with the conclusion that a large size home could be built sensitively with good design, siting and LRVs that may not require a large lot to minimize the impact of the home on within the Viewshed. There was consensus that leaving room for good design could lead to more attractive developments and reduced impact even from large homes or buildings. There was a comment made that building a large home on a slope could have a greater impact than a similar sized home perched on the ridgeline, as you see only one plane of the house.



Overall suggestions led to keeping an open mind on design, achieving cooperation with property owners (through pre-app and dialogue) than over-regulation.

Staff discussed the concept of the Board and preference for a more universal approach to viewshed regulations in contrast to multiplying the number of "-d" districts with different approaches, standards, and requirements. An outcome of this planning effort could be a universal -d combining district for viewshed protection that would replace the existing "-d," "-d1," and "-d2" districts. There may be some different criteria used for distance and visibility depending on differing conditions on the east and west hillsides. Some portions of the Santa Cruz range are more heavily vegetated and forested than others, and in comparison to eastern hillsides.

Staff distributed a schedule of upcoming community outreach meetings to be held end of March 2006. Property owners will be noticed of these meetings. There will be three meetings spread out over the County. The first will be held at the Santa Clara County Supervisors' Chambers on March 23<sup>rd</sup>, second at the Morgan Hill Community Center on March 28<sup>th</sup> and the third one at the Quinlan Community Center, Cupertino on March 30<sup>th</sup>. The mailing lists for noticing will be divided into 3 areas based on proximity to the meeting locations. The purpose will be to inform property owners of the status of the work plan, stakeholder meetings, issues, and timeline. Input from both the stakeholder and community meetings will be communicated to the Board and help fashion options for the Board's consideration.

## CONCLUDING COMMENTS

To date, a number of participants have reiterated and/or expanded upon their comments or concerns expressed in the meeting by means of email. Written communications are welcome and become part of the overall record of proceedings. Due to the length of this summary document, however, staff has not attempted to reiterate all the main points from all of these emails for this distribution. The following points and comments are summarized from these emails:

- Concerns were expressed that the real intent of County evaluation of viewshed protection is to curb all hillside development. [Note: Staff reports and recommendations to date contain no proposals that would preclude existing allowed uses].
- Many affected property owners expressed that they share environmental and conservation goals for their properties, balanced with the right to reasonably develop for residential use. Some of these properties are large and have been in same ownership for many years if not generations. Many owners have no intention to subdivide the larger parcels, which would have greater visual impacts. County should guard against creating a polarizing debate and an "us versus them" mentality in these discussions.
- Affected owners generally want to limit the area of concern to hills visible from the valley floor and strongly resist suggestions that visible hillside areas be further defined from public roads, scenic highway corridors, and public park lands.
- House size limits and ridgeline development restrictions will provoke the strongest opposition from affected property owners.

- Deed restrictions should not be used to record mitigation and condition requirements.
- Story poles are not necessary and if used, should not employ bright "signal orange" netting that is highly visible, in contrast to darker, more muted colors that would be required of a project.
- Building heights less than the standard 35 feet can be counterproductive, as may grading requirements if a building would be better situated if cut into the hillside, even if that results in more excavation of material.
- Two stories and a basement should be acceptable height limits on stories.
- Exterior lighting controls are needed, but for both County and City hillside properties.
- The County should listen fairly to all constituencies involved, not just environmental organizations.