

Ordinance No. NS-1200.320

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SANTA CLARA AMENDING APPENDIX I
OF THE COUNTY OF SANTA CLARA ORDINANCE CODE
TO IMPLEMENT NEW REGULATIONS RELATED TO
VIEWSHED PRESERVATION

EDIT VERSION
(Underline ~~Strikethru~~)

SUMMARY

This ordinance adds additional standards, procedures and regulations to properties rezoned pursuant to the viewshed protection study, to preserve and protect the scenic quality of the hillsides that frame the Santa Clara Valley.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:

SECTION 1: Section 3.20.040 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

~~§ 3.20.040 — d₁ District (West Valley Hillsides)~~

~~The d₁ combining district is intended to preserve the integrity of the West Valley hillsides by mitigating the visual impacts of development on those lands where the d₁ zoning district is applied. The following supplementary development standards shall apply to structures, including new construction and exterior modifications or additions to existing structures, on properties zoned d₁:~~

- A. ~~Height.~~ Maximum height of dwellings shall be 30 feet. ~~The maximum height of accessory buildings shall be in accordance with Section 4.20.020, except that in no case shall the height of any accessory building exceed 30 feet.~~
- B. ~~Color.~~ The light reflectivity value (LRV) of exterior surfaces shall not exceed 60. ~~Lower LRV requirements may be required by the zoning administrator when a structure's visibility and potential contrast against the site's background warrant darker tones. The zoning administrator may waive this reflectivity requirement for minimal trim or other minor architectural features.~~

C. ~~Rebuilding.~~ A structure in the ~~d₁~~ district may be rebuilt exactly as it previously existed if it is destroyed by acts of nature such as earthquake, fire or landslide, provided the following provisions are met:

- ~~1. The original structure was lawfully constructed with appropriate building permits required at the time of construction.~~
- ~~2. The application for a building permit to construct the new structure is filed within two years of the date of destruction of the original structure. The rebuilding exemption shall not be applicable to any subsequent building permit application filed after the foregoing two-year period expires if the initial application referred to above is abandoned or if any building permit issued thereunder is revoked or lapses.~~
- ~~3. The new structure is located on the same footprint as the original building and is in accordance with current building code, health and safety requirements.~~
- ~~4. The new structure does not exceed the height or size of the original structure.~~
- ~~5. Design review approval, limited in scope to landscaping and the color of the structure only, is obtained for the new structure.~~

§ 3.20.040 -d₁ District (Santa Clara Valley Viewshed)

The -d₁ combining district is intended to conserve the scenic attributes of those hillside lands most immediately visible from the valley floor. It is intended to minimize the visual impacts of structures and grading on the natural topography and landscape, using a combination of supplemental development standards, design guidelines, design review, and use of process incentives for smaller and less visible projects.

A. **Project Classifications:** Development standards and procedures shall utilize a tiered regulatory structure based primarily on building size, as follows:

- 1. Tier 1:** Projects where gross floor area (see § 1.30.030) of primary dwelling is 5,000 square feet or smaller, and cumulative gross floor area of primary dwelling and detached accessory buildings and/or secondary dwellings constructed after September 28, 2006 (ordinance effective date) does not exceed 6,500 square feet. Additions to existing primary dwelling resulting in total floor area of 5,000 square feet or smaller shall also be reviewed as Tier 1.
 - a. Administrative Review.** Building projects classified as Tier 1 shall normally be reviewed without a public hearing. Such projects shall be subject to a discretionary design review exemption (see § 5.50.060), which shall focus on the project's compliance with color standards, and any other Tier 1-applicable standards of this section.
 - b. Color; Light Reflectivity Value (LRV).** The provisions of subsection B shall apply to Tier 1 projects.

- c. **Grading.** Except where subsection G, *Exemption for Sites Not Visible*, applies, Tier 1 projects requiring a grading permit shall not be eligible for a discretionary exemption when:

 - i. Earthwork quantities exceed 1,500 cubic yards (excepting excavation quantities for foundations, basements and pools), or
 - ii. Retaining walls where elevations exceeding five (5) vertical feet extend more than 80 horizontal feet.
- d. **Other Circumstances Requiring a Hearing.** When an exception is proposed to deviate from the massing or retaining wall standards of subsections C or D, a full design review application and hearing shall be required.
2. **Tier 2:** Projects where gross floor area (see § 1.30.030) of the primary dwelling is between 5,001 square feet and 12,500 square feet. Additional buildings (secondary dwellings, accessory buildings, others) shall be subject to the standard design review procedures and exemptions of Chapter 5.50.

 - a. **Design Review Required.** Building projects classified under Tier 2 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption except when subsection G, *Exemption for Sites Not Visible*, applies.
 - b. **Siting.** A Tier 2 category building should, to the extent possible and practical, be sited where natural topography, or a combination of topography and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.
 - c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 2 design review. Story poles shall be fully erected, per the County's story poles standards, at least seven (7) days prior to the scheduled hearing.
3. **Tier 3:** Projects where gross floor area (see § 1.30.030) of any proposed dwelling, accessory building or other building exceeds 12,500 square feet.

 - a. **Design Review Required.** Building projects classified under Tier 3 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption except when subsection G, *Exemption for Sites Not Visible*, applies. The Planning Commission shall be the approving authority for all Tier 3 design review applications.
 - b. **Low Visibility Siting.** Tier 3 review is intended to ensure that very large buildings are sensitively sited and designed such that they do not result in viewshed impacts greater than what might result from a sensitively designed Tier 2 or Tier 1 building. A Tier 3 category building must be sited in an area where natural topography, or a combination of topography

and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.

- c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 3 design review. Story poles shall be fully erected, per the County's story poles standards, at least seven (7) days prior to the scheduled hearing.

B. **Color; Light Reflectivity Value (LRV).** The light reflectivity value (LRV) of exterior surfaces shall not exceed 45. The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this LRV requirement for minimal trim or other minor architectural features. LRV restrictions may be waived entirely when subsection G, *Exemption for Sites Not Visible*, applies.

C. **Building Massing.** Buildings with moderate to high visibility shall be designed following the massing guidelines within the adopted Design Review Guidelines. In addition, the following specific limitations on wall dimensions shall apply to all Tier 1, Tier 2 and Tier 3 projects not deemed exempt under subsection G:

1. Maximum horizontal length of a continuous wall plane shall be 80 feet.
2. Maximum height of a wall plane, including foundation and other continuous components, shall be 24 feet, with the following exceptions: (a) Any architectural component where façade dimension does not exceed 18 horizontal feet, or (b) multiple such components (18 horizontal feet maximum) where combined horizontal dimension does not exceed 25% of the total horizontal dimension of the façade. This limitation may be varied through the design review process for wall planes not facing the valley floor or otherwise having demonstrably low visibility.
3. Portions of a wall plane must be offset by at least five (5) horizontal feet to be deemed discontinuous for the purposes of this provision.

Massing restrictions may be waived when subsection G, *Exemption for Sites Not Visible*, applies.

D. **Retaining Walls.** Retaining walls visible from the valley floor shall not exceed 10 feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds 10 feet must each be offset by at least six (6) horizontal feet. Visible walls shall be colored and textured to complement the background land and vegetation, per the adopted Design Review Guidelines.

E. **Ridgeline Development.** The ridgeline protection policies of the General Plan Growth and Development chapter shall be applied to any project situated on or adjacent to a ridgeline.

- F. **Design Review Guidelines.** All projects subject to design review shall comply with applicable provisions of the adopted Design Review Guidelines document.
- G. **Exemption for Sites Not Visible.** Any project where structures would be situated on portions of a lot outside of the visible viewshed area (based on GIS visibility analysis) shall be eligible for a discretionary exemption (see § 5.50.060). Additional visibility analysis tools and methods may be utilized by staff to further evaluate the potential visibility of a project proposed on such a site. The exemption may not be approved for Tier 3 projects if it is determined that any portion of the proposed building would be visible from the valley floor.
- H. **Ongoing Compliance.** All conditions established through the design review procedure shall be the ongoing obligation of the property owners, including future property owners. A copy of the design review permit and conditions applicable to the property shall be recorded with the Recorder's Office, to ensure that present and future property owners are aware of the conditions and their obligation to uphold them.
- I. **Rebuilding.** A building in the -d₁ district may be rebuilt in the same location as the original structure (regardless of visibility) if it is destroyed by earthquake, fire or other casualty event, provided the following provisions are met:
1. The original building was lawfully constructed with all appropriate County permits required at the time of construction.
 2. The floor area of the replacement building does not exceed the legally established (permitted, if applicable) floor area of the original structure.
 3. The application for a building permit to construct the new building is filed within two years of the date of the casualty event. The Director shall be authorized to extend this deadline when warranted by special circumstances.
 4. A replacement building designed according to the approved building plans for the original building shall be exempt from the massing standards of subsection C. Where original building plans cannot be produced, massing standards shall apply.
 5. The replacement building shall be subject to a discretionary design review exemption (see § 5.50.060), which shall focus on the project's compliance with color standards, and any other Tier 1-applicable standards of this section.

A replacement building that is sited in a different location than the original, or is larger in floor area, or both, shall be subject to the standard procedures and requirements of this section.

SECTION 2: The section headings for Chapter 3.20: Design Review Combining Districts shall be appropriately revised as follows (additions are underlined, deletions ~~overstruck~~):

CHAPTER 3.20 -d DESIGN REVIEW COMBINING DISTRICTS

Sections:

§ 3.20.010	Purpose
§ 3.20.020	Applicability
§ 3.20.030	Design Review Required
§ 3.20.040	-d₁ Combining District, West Valley Hillside
§ 3.20.040	<u>-d₁ Combining District, Santa Clara Valley Viewshed</u>
§ 3.20.050	<u>-d₂ Combining District, Milpitas Hillside</u>

SECTION 3: Section 3.20.050 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 3.20.050 -d₂ District (Milpitas Hillside)

The purpose of establishing the -d₂ zoning district is to maintain the predominantly natural appearance of the Milpitas hillside areas to which the -d₂ zoning district is applied. In furtherance of that objective, the following supplementary development standards shall apply to structures, including new construction and exterior modifications/additions to existing structures, on properties zoned -d₂. In addition, the provisions contained within the adopted design review guidelines shall be appropriately applied as part of the design review process.

- A. **Maximum House Size.** For lots that are less than 10 acres, the gross floor area of dwellings shall not exceed 6,000 square feet. For lots that are 10 acres or greater, gross floor area of dwellings shall not exceed 8,000 square feet.
- B. **Height.** The maximum height of dwellings shall be 27 feet and two (2) stories. The maximum height of accessory structures shall be in accordance with Section 4.20.020, except that in no case shall the height of any accessory building or structure exceed 27 feet.
- C. **Color.** The light reflectivity value (LRV) of the exterior surfaces of any structure shall not exceed 60 ~~45~~. ~~Lower LRV requirements may be required by the zoning administrator when warranted by a structure's visibility, prominence, and its potential contrast against the site's background.~~ The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this light reflectivity requirement for minimal trim or other minor architectural features.

- D. **Crestline Area Development Restrictions.** Placement and height of any proposed structure may be restricted to ensure that no structure protrudes above the perceived crestline, as delineated on the official City of Milpitas zoning map. To ensure that proposed structures, whether east or west of the crestline, do not protrude above the crestline, story poles, line-of-sight analyses, or other visualization methods may be required for each project subject to design review. Story poles shall be the preferred means of evaluating potential impacts to the crestline and the basis for necessary determinations that the structures do not protrude above the perceived crestline.

SECTION 4: Section 1.30.030 of Chapter 1.30, Article 1 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

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Floor area, gross: The sum of the gross horizontal areas of the several floors of a building, as measured from the rough exterior faces of the exterior walls, or (if applicable) from the centerline of a common wall between two attached buildings. Also

~~included in this definition are any attached structures over 30 inches in height, including, but not limited to, decks (covered and uncovered), carports, arbors and similar structures, stairwells, as well as attached garages; however, eaves that are unsupported and do not project more than two and one-half (2.5) feet are excluded.~~

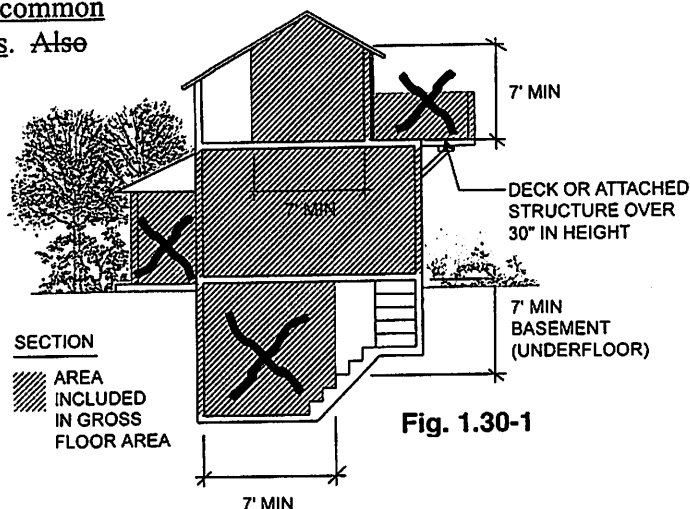


Fig. 1.30-1

“Floor area, gross” also includes the total area of any attached garage, and includes any carport, porch or similar attached structure or feature that is both: (a) covered, and (b) greater than 50% enclosed by perimeter walls. It includes the horizontal area of an interior stairway at each of the two or more stories to which the stairway provides access. Any space located between the topmost floor and the ceiling or roof above and which attic space that has a minimum clearance of seven (7) feet in each of three (3) dimensions for at least 70 contiguous square feet shall be included. Where the vertical distance between any floor and the ceiling above exceeds 15 feet, floor area shall be counted twice.

~~Any underfloor (basement) space that has a minimum clearance of seven (7) feet in each of three dimensions for at least 70 contiguous square feet in floor area shall be included~~

does not constitute a story, per the definition of "story" as provided in this chapter, shall be excluded when calculating residential floor area ratio. Such underfloor space shall, however, be included as part of "floor area, gross" when determining required nonresidential parking spaces as stipulated in §4.30.040.

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SECTION 5: Section 5.50.030 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 5.50.030 Approval Authority

The Zoning Administrator shall ~~hear and decide~~ be the approval authority for design review applications, except where otherwise expressly specified.

SECTION 6: Section 5.50.050 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 5.50.050 Statutory Exemptions

The following types of structures are deemed minor in character and are in all cases exempt from the design review process, except where any conflicting "-d," process requirements apply (§ 3.20.040):

- ~~A. Detached accessory buildings that are exempt from the building permit requirement on the basis of size and are not within any easement or right-of-way;~~
- A. House additions of 1,000 square feet or less in floor area;
- B. Detached buildings and structures 1,000 square feet or less in floor area;
- ~~B. Any accessory building or structure whose combined above-ground dimensions (maximum length + maximum width + maximum height) do not exceed 16 feet.~~
- C. Decks whose floor surface is 30 inches or less above final grade, and grade-level pavement for which grading performed prior to paving does not require a grading permit;
- ~~D. Fences three (3) feet or less in height.~~
- D. Any decks (regardless of height), carports, trellises or other structures attached to a dwelling that are 1,000 square feet or less in floor area;

~~E. Grade level pavement for which grading performed prior to paving does not require a grading permit;~~

E. Fences three (3) feet or less in height.

~~F. Retaining walls that are not subject to a grading permit;~~

F. Open fences, having a composition (solid components vs open "gap" components) where not more than 25% of the surface area is solid when viewed from a position perpendicular to the fence; and that meet the applicable fence height requirements of Section 4.20.050.

~~G. Retaining walls that are not subject to a grading permit;~~

~~G. H.~~ Solar (photovoltaic) panels; and

~~H. I.~~ Swimming pools;

The cumulative construction of multiple statutory exempt projects on a lot may, at the discretion of the Zoning Administrator, be subject to the design review process.

SECTION 6: Section 5.50.060 of Chapter 5.60, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended as follows (additions are underlined, deletions ~~overstruck~~):

§ 5.50.060 Discretionary Exemptions

The following ~~use~~ project categories may, at the discretion of the Zoning Administrator, be considered minor and exempt from the design review process, except where any conflicting "-d1" process requirements apply (§ 3.20.040):

~~A. Additions of 500 square feet or less in floor area to a dwelling;~~

A. House additions with floor area between 1,001 and 2,500 square feet;

~~B. Detached accessory buildings of 500 square feet or less in area;~~

B. Detached buildings and structures with floor area between 1,001 and 2,500 square feet;

~~C. Decks whose floor surface is over 30 inches in height above grade;~~

C. Decks where those portions of floor surface that exceed 30 inches in height above grade comprise a total surface area exceeding 1,000 square feet;

- D. Fences in “-d” combining districts or along designated scenic roads which conform to the provisions of this ordinance regulating fence height (excluding certain “open” fences, see subsection 5.50.050(F)); and
- E. Projects in “-d₁” zoning districts meeting exemption criteria specified in Section 3.20.040 (i.e. “Tier 1,” and “Sites Not Visible”), regardless of any conflicting standards within this section, and;
- ~~E.~~ F. Other minor construction similar in scale to the above categories and having low potential for visual impact.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

James T. Beall, Jr., Chair
Board of Supervisors

ATTEST:

Phyllis A. Perez
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Lizanne Reynolds
Deputy County Counsel

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA AMENDING
THE COUNTY GENERAL PLAN TO ADD A SECTION
TO THE GROWTH & DEVELOPMENT CHAPTER
FOR RURAL UNINCORPORATED AREA ISSUES AND
POLICIES, PART 3 OF BOOK B OF THE GENERAL PLAN,
ENTITLED "STRATEGY #3: ENSURE ENVIRONMENTALLY-SAFE
AND AESTHETIC HILLSIDE DEVELOPMENT," AS PART OF THE
COUNTYWIDE VIEWSHED PROTECTION STUDY
(File No. 8630-00-00-06GP)**

WHEREAS, the Board of Supervisors authorized the Viewshed Protection Study as part of the County Planning Office work plan, to evaluate and provide recommendations regarding the environmental and visual impacts of hillside development; and

WHEREAS, the County General Plan and Zoning Ordinance recognize the value and importance of the scenic resources of the County to the overall quality of life of its citizens, including the hillsides surrounding the urbanized areas, and the General Plan's goals and policies encourage the protection of such natural resources for both environmental and scenic qualities, to preserve the generally natural appearance of the hillsides and reduce the adverse visual impacts of subdivision and development; and

WHEREAS, on April 9, 2005, the County Board of Supervisors held a public hearing and received a report and preliminary recommendations for additional viewshed protection measures, and voted to hold workshop to further consider and evaluate the viewshed study recommendations; and

WHEREAS, on August 31, 2005, the Board of Supervisors held a land use workshop to consider the preliminary recommendations, receive public testimony, and provide further direction to staff, and the Board voted at that workshop to accept the preliminary recommendations, request quarterly status reports on the progress of the study, and directed that a schedule be prepared for the conclusion of the Viewshed Protection Study in 2006, with appropriate opportunities for public outreach and participation; and

WHEREAS, staff conducted a series of stakeholder participation meetings in January and February of 2006, followed by three community meetings in March of 2006, during which there were presentations and significant opportunity for public comment, which informed and helped shape the project proposals; and

WHEREAS, the Planning Commission held duly noticed public hearings on July 6, 2006 and August 3, 2006 to consider staff recommendations, receive public testimony, and deliberate regarding its recommendations to the Board of Supervisors, and the Planning Commission voted unanimously to forward a recommendation to the Board to approve the proposed General Plan text amendment, attached hereto as Exhibit 1, with the following specific recommendations:

- a) that the Board adopt the proposed Ridgeline Development Policies R-GD 30 through 35, as stated on pp. K-17 to K-18 of the proposed text amendment, and
- b) that the Board consider the substitution of the word 'shall' for the word 'may' in the text of the proposed policy R-GD 33 regarding ridgeline development on existing lots and the mitigations that could apply.

Staff has incorporated that wording change recommendation in the proposed text amendment with further wording clarifications for consistency with overall Planning Commission recommendations and project proposals.

THE BOARD OF SUPERVISORS HEREBY FINDS AS FOLLOWS:

A. CEQA. The proposed General Plan amendment would not have any new or substantially more severe significant impacts upon the environment, pursuant to the California Environmental Quality Act ("CEQA"), Public Resources Code 21000 *et seq.*, that were not previously addressed in the Environmental Impact Report ("EIR") prepared and certified for the County General Plan in 1994. As explained in the staff reports prepared for the Planning Commission and Board of Supervisors, the project is consistent with and furthers existing goals, policies, and implementation recommendations of the General Plan, is not expected to result in any new environmental impacts, and any potential impacts which could occur as a result of implementation of the project have been adequately evaluated in the 1994 EIR. Therefore, no additional environmental review is necessary for the General Plan amendment.

B. Public Participation. Six stakeholder meetings and three community meetings were held to receive public comment on the preliminary recommendations for the proposed General Plan amendment, which provided ample opportunity for public involvement in accordance with Government Code section 65351.

C. Planning Commission Public Hearing and Recommendation. The Planning Commission held properly noticed public hearings on the proposed General Plan amendment on July 6, 2006 and August 3, 2006 as required by Government Code section 65353, and based upon the information provided within the staff report, voted to forward a favorable written recommendation to the Board of Supervisors regarding adoption of the proposed General Plan amendment, in compliance with Government Code section 65354.

D. No Substantial Modifications Requiring Planning Commission Reconsideration. The Board of Supervisors has not made any substantial modifications to the proposed General Plan amendment that were not previously considered by the Planning Commission when the Planning Commission forwarded its written recommendation to the Board.

E. Amendment in Public Interest. Adoption of the proposed General Plan amendment is in the public interest. The proposed policies and explanatory text will clarify, augment, and improve existing County policies regarding the use of Design Review zoning for viewshed protection, grading and terrain alteration, development on steep slopes, and ridgeline and hilltop development, to better ensure environmentally-safe and aesthetic hillside development.

F. No General Plan Inconsistencies. Adoption of the proposed General Plan amendment would not create any internal General Plan inconsistencies or otherwise cause the General Plan to be deficient.

G. Information Considered. In taking action on the Project, the Board fully reviewed and considered the information contained in the staff reports, Planning Commission recommendations, oral and written testimony received from members of the public and other public agencies, and additional information contained in reports, correspondence, studies, proceedings, and other matters of record included or referenced in the administrative record of these proceedings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Santa Clara, State of California, that the County General Plan is hereby amended as follows:

The "Growth & Development Chapter" for Rural Unincorporated Area Issues and Policies, Part 3 of Book B the Santa Clara County General Plan, shall include the section entitled "*Strategy #3: Ensure Environmentally-Safe and Aesthetic Hillside Development,*" pages K-7 through K-18, inclusive, attached hereto as Exhibit 1.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James T. Beall, Chair
Board of Supervisors

ATTEST:

Phyllis A. Perez
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Lizanne Reynolds 8-16-06
Lizanne Reynolds
Deputy County Counsel

Exhibits to this Resolution:

1. "Strategy #3: Ensure Environmentally-Safe and Aesthetic Hillside Development," pp. K-7 through K-18 inclusive.

Ordinance No. NS-1200.320

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THE COUNTY OF SANTA CLARA AMENDING APPENDIX I
OF THE COUNTY OF SANTA CLARA ORDINANCE CODE
TO IMPLEMENT NEW REGULATIONS RELATED TO
VIEWSHED PRESERVATION**

SUMMARY

This ordinance adds additional standards, procedures and regulations to properties rezoned pursuant to the viewshed protection study, to preserve and protect the scenic quality of the hillsides that frame the Santa Clara Valley.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA
ORDAINS AS FOLLOWS:**

SECTION 1: Section 3.20.040 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 3.20.040 -d₁ District (Santa Clara Valley Viewshed)

The -d₁ combining district is intended to conserve the scenic attributes of those hillside lands most immediately visible from the valley floor. It is intended to minimize the visual impacts of structures and grading on the natural topography and landscape, using a combination of supplemental development standards, design guidelines, design review, and use of process incentives for smaller and less visible projects.

- A. **Project Classifications:** Development standards and procedures shall utilize a tiered regulatory structure based primarily on building size, as follows:
1. **Tier 1:** Projects where gross floor area (see § 1.30.030) of primary dwelling is 5,000 square feet or smaller, and cumulative gross floor area of primary dwelling and detached accessory buildings and/or secondary dwellings constructed after September 28, 2006 (ordinance effective date) does not exceed 6,500 square feet. Additions to existing primary dwelling resulting in total floor area of 5,000 square feet or smaller shall also be reviewed as Tier 1.
 - a. **Administrative Review.** Building projects classified as Tier 1 shall normally be reviewed without a public hearing. Such projects shall be subject to a discretionary design review exemption (see § 5.50.060), which

- shall focus on the project's compliance with color standards, and any other Tier 1-applicable standards of this section.
- b. **Color; Light Reflectivity Value (LRV).** The provisions of subsection B shall apply to Tier 1 projects.
 - c. **Grading.** Except where subsection G, *Exemption for Sites Not Visible*, applies, Tier 1 projects requiring a grading permit shall not be eligible for a discretionary exemption when:
 - i. Earthwork quantities exceed 1,500 cubic yards (excepting excavation quantities for foundations, basements and pools), or
 - ii. Retaining walls where elevations exceeding five (5) vertical feet extend more than 80 horizontal feet.
 - d. **Other Circumstances Requiring a Hearing.** When an exception is proposed to deviate from the massing or retaining wall standards of subsections C or D, the standard design review procedure shall be required.
2. **Tier 2:** Projects where gross floor area (see § 1.30.030) of the primary dwelling is between 5,001 square feet and 12,500 square feet. Additional buildings (secondary dwellings, accessory buildings, others) shall be subject to the standard design review procedures and exemptions of Chapter 5.50.
- a. **Design Review Required.** Building projects classified under Tier 2 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption except when subsection G, *Exemption for Sites Not Visible*, applies.
 - b. **Siting.** A Tier 2 category building should, to the extent possible and practical, be sited where natural topography, or a combination of topography and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.
 - c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 2 design review. Story poles shall be fully erected, per the County's story poles standards, at least seven (7) days prior to the scheduled hearing.
3. **Tier 3:** Projects where gross floor area (see § 1.30.030) of any proposed dwelling, accessory building or other building exceeds 12,500 square feet.
- a. **Design Review Required.** Building projects classified under Tier 3 shall be subject to the design review procedure, per Chapter 5.50, and are not eligible for a discretionary exemption except when subsection G, *Exemption for Sites Not Visible*, applies. The Planning Commission shall be the approving authority for all Tier 3 design review applications.

- b. **Low Visibility Siting.** Tier 3 review is intended to ensure that very large buildings are sensitively sited and designed such that they do not result in viewshed impacts greater than what might result from a sensitively designed Tier 2 or Tier 1 building. A Tier 3 category building must be sited in an area where natural topography, or a combination of topography and existing vegetation, provide at least a fundamental and sufficient measure of visibility mitigation.
 - c. **Story Poles.** Story poles shall be required of all new buildings subject to Tier 3 design review. Story poles shall be fully erected, per the County's story poles standards, at least seven (7) days prior to the scheduled hearing.
- B. **Color; Light Reflectivity Value (LRV).** The light reflectivity value (LRV) of exterior surfaces shall not exceed 45. The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this LRV requirement for minimal trim or other minor architectural features. LRV restrictions may be waived entirely when subsection G, *Exemption for Sites Not Visible*, applies.
- C. **Building Massing.** Buildings with moderate to high visibility shall be designed following the massing guidelines within the adopted Design Review Guidelines. In addition, the following specific limitations on wall dimensions shall apply to all Tier 1, Tier 2 and Tier 3 projects not deemed exempt under subsection G:
 - 1. Maximum horizontal length of a continuous wall plane shall be 80 feet.
 - 2. Maximum height of a wall plane, including foundation and other continuous components, shall be 24 feet, with the following exceptions: (a) Any architectural component where façade dimension does not exceed 18 horizontal feet, or (b) multiple such components (18 horizontal feet maximum) where combined horizontal dimension does not exceed 25% of the total horizontal dimension of the façade. This limitation may be varied through the design review process for wall planes not facing the valley floor or otherwise having demonstrably low visibility.
 - 3. Portions of a wall plane must be offset by at least five (5) horizontal feet to be deemed discontinuous for the purposes of this provision.

Massing restrictions may be waived when subsection G, *Exemption for Sites Not Visible*, applies.
- D. **Retaining Walls.** Retaining walls visible from the valley floor shall not exceed 10 feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds 10 feet must each be offset by at least six (6) horizontal feet. Visible walls shall be colored and textured to

complement the background land and vegetation, per the adopted Design Review Guidelines.

- E. **Ridgeline Development.** The ridgeline protection policies of the General Plan Growth and Development chapter shall be applied to any project situated on or adjacent to a ridgeline.
- F. **Design Review Guidelines.** All projects subject to design review shall comply with applicable provisions of the adopted Design Review Guidelines document.
- G. **Exemption for Sites Not Visible.** Any project where structures would be situated on portions of a lot outside of the visible viewshed area (based on GIS visibility analysis) shall be eligible for a discretionary exemption (see § 5.50.060). Additional visibility analysis tools and methods may be utilized by staff to further evaluate the potential visibility of a project proposed on such a site. The exemption may not be approved for Tier 3 projects if it is determined that any portion of the proposed building would be visible from the valley floor.
- H. **Ongoing Compliance.** All conditions established through the design review procedure shall be the ongoing obligation of the property owners, including future property owners. A copy of the design review permit and conditions applicable to the property shall be recorded with the Recorder's Office, to ensure that present and future property owners are aware of the conditions and their obligation to uphold them.
- I. **Rebuilding.** A building in the -d₁ district may be rebuilt in the same location as the original structure (regardless of visibility) if it is destroyed by earthquake, fire or other casualty event, provided the following provisions are met:
 - 1. The original building was lawfully constructed with all appropriate County permits required at the time of construction.
 - 2. The floor area of the replacement building does not exceed the legally established (permitted, if applicable) floor area of the original structure.
 - 3. The application for a building permit to construct the new building is filed within two years of the date of the casualty event. The Director shall be authorized to extend this deadline when warranted by special circumstances.
 - 4. A replacement building designed according to the approved building plans for the original building shall be exempt from the massing standards of subsection C. Where original building plans cannot be produced, massing standards shall apply.
 - 5. The replacement building shall be subject to a discretionary design review exemption (see § 5.50.060), which shall focus on the project's compliance with color standards, and any other Tier 1-applicable standards of this section.

A replacement building that is sited in a different location than the original, or is larger in floor area, or both, shall be subject to the standard procedures and requirements of this section.

SECTION 2: The section headings for Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, shall be appropriately revised as follows:

CHAPTER 3.20 -d DESIGN REVIEW COMBINING DISTRICTS

Sections:

§ 3.20.010	Purpose
§ 3.20.020	Applicability
§ 3.20.030	Design Review Required
§ 3.20.040	-d₁ Combining District, Santa Clara Valley Viewshed
§ 3.20.050	-d₂ Combining District, Milpitas Hillside

SECTION 3: Section 3.20.050 of Chapter 3.20, Article 3 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 3.20.050 -d₂ District (Milpitas Hillside)

The purpose of establishing the -d₂ zoning district is to maintain the predominantly natural appearance of the Milpitas hillside areas to which the -d₂ zoning district is applied. In furtherance of that objective, the following supplementary development standards shall apply to structures, including new construction and exterior modifications/additions to existing structures, on properties zoned -d₂. In addition, the provisions contained within the adopted design review guidelines shall be appropriately applied as part of the design review process.

- A. **Maximum House Size.** For lots that are less than 10 acres, the gross floor area of dwellings shall not exceed 6,000 square feet. For lots that are 10 acres or greater, gross floor area of dwellings shall not exceed 8,000 square feet.
- B. **Height.** The maximum height of dwellings shall be 27 feet and two (2) stories. The maximum height of accessory structures shall be in accordance with Section 4.20.020, except that in no case shall the height of any accessory building or structure exceed 27 feet.

- C. **Color.** The light reflectivity value (LRV) of the exterior surfaces of any structure shall not exceed 45. The Zoning Administrator may additionally specify subdued chroma (color saturation) when warranted for a structure deemed to have high visibility and contrast against the site's background. The Zoning Administrator may waive this light reflectivity requirement for minimal trim or other minor architectural features.
- D. **Crestline Area Development Restrictions.** Placement and height of any proposed structure may be restricted to ensure that no structure protrudes above the perceived crestline, as delineated on the official City of Milpitas zoning map. To ensure that proposed structures, whether east or west of the crestline, do not protrude above the crestline, story poles, line-of-sight analyses, or other visualization methods may be required for each project subject to design review. Story poles shall be the preferred means of evaluating potential impacts to the crestline and the basis for necessary determinations that the structures do not protrude above the perceived crestline.

SECTION 4: Section 1.30.030 of Chapter 1.30, Article 1 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 1.30.030 Definitions of Terms

Accessory structure: A structure or building that is auxiliary and subordinate to the main structure or building on a lot, except as otherwise provided herein. Any building that is incidental to the conduct of any agricultural use shall be considered to be an agricultural accessory building. No building designed, intended or used for dwelling purposes shall be considered to be an accessory structure.

Accessory use: A use related to, but auxiliary and subordinate to the primary use on a lot.

Agriculture-serving use: A use that supports the agricultural industry including but not limited to shipping and trucking operations, manufacturing and sales of farm and nursery equipment and supplies, large animal hospitals, and other service providers catering specifically to the agriculture industry.

Alley: Any public thoroughfare, not exceeding thirty (30) feet in width, for the use of pedestrians or vehicles, or both, that affords only a secondary means of access to abutting property.

Animal, large: Animals characterized by their relative size to other animals and including but not limited to horses, cattle, bison and donkeys. Variants of species (e.g. miniature horses) may be reclassified as medium or small animals at the discretion of the zoning administrator.

Animal, medium: Animals characterized by their relative size to other animals and including but not limited to sheep, goats, pigs, ostriches, emus, llamas and alpacas.

Animal, small: Animals characterized by their relative size to other animals and including but not limited to chickens, ducks, geese, turkeys, pheasants, mink and rabbits.

Architectural value: Representing one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the county.

Attic: The unconditioned part of a building immediately below the roof situated wholly within the roof framing (see "story, half" for conditioned "attic" space).

Bay window: A window or series of windows jutting out from the wall of a building and forming an alcove within.

Boarding house: Any residential building used for the renting of rooms or providing of table board, or both, for three (3) to six (6) persons over the age of 16 years who are not related by blood or marriage to the resident-operator thereof.

Breezeway: A covered passageway open on two (2) or more sides, joining two (2) or more detached buildings.

Building: Any structure having a roof supported by columns or walls, or both, and intended for the shelter, housing or enclosure of any person, animal or personal property. When any portion of a structure is completely separated from every other portion of the structure by a masonry division or firewall without any window, door or other opening and the masonry division or firewall extends from the ground to the upper surface of the roof at every point, such portion shall be deemed to be a separate building.

Building envelope: The three-dimensional space whose boundaries coincide with the developable area and permissible height limits for structures within it.

Building footprint: That portion of a property vertically below the maximum extensions of the enclosed structure(s) thereon, including covered decks, uncovered decks over thirty (30) inches above grade, and carports, but excluding roof projections of two and one-half (2.5) feet or less.

Building, main: A building or buildings in which the lot's principal use is conducted.

Centerline: The centerline of a street as established by the County Surveyor of the County or by the city engineer of any city within the county or by the California Department of Transportation. If no such center line has been established, the center line of a street shall be a line midway between the side lines of the right-of-way thereof; provided, however, that if only a part-width right-of-way exists for any portion of any street, the center line for such part-width portion shall be determined by prolonging the center lines on each side of such part-width portion parallel to the side lines of such part-

width portion. If the foregoing method of establishing the centerline is not feasible, the zoning administrator shall designate the centerline.

Developable area: That portion of the property with characteristics suitable, under the policies of the general plan and this zoning ordinance, for location of access routes, placement of habitable structures, septic drainfields and accessory structures.

Dwelling purposes: The use of a building for human habitation, which is designed, intended or used for sleeping, cooking, eating, and sanitation.

Dwelling unit: A building or portion thereof that is designed, intended or used for dwelling purposes for one family, as defined in this section.

Family: One or more persons occupying a premises and living as a single, nonprofit household, as distinguished from a group occupying a hotel, club, fraternity or sorority house. A family shall be deemed to include necessary domestic help.

Fee access corridor: That portion of a flag lot used for access that is owned in fee simple.

Floor area, gross: The sum of the gross horizontal areas of the several floors of a building, as measured from the rough exterior faces of the exterior walls, or (if applicable) from the centerline of a common wall between two attached buildings.

"Floor area, gross" also includes the total area of any attached garage, and includes any carport, porch or similar attached structure or feature that is both: (a) covered, and (b) greater than 50% enclosed by perimeter walls. It includes the horizontal area of an interior stairway at each of the two or more stories to which the stairway provides access. Any attic space that has a minimum clearance of seven (7) feet in each of three (3) dimensions for at least 70 contiguous square feet shall be included. Where the vertical distance between any floor and the ceiling above exceeds 15 feet, floor area shall be counted twice.

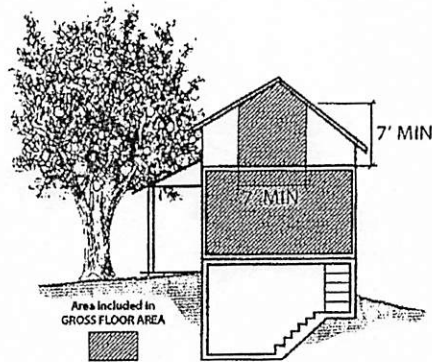
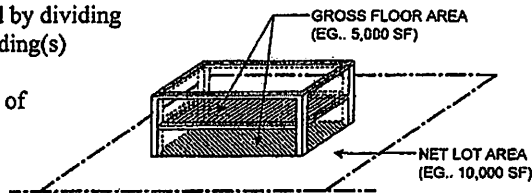


Fig. 1.30-1

Any underfloor (basement) space that does not constitute a story, per the definition of "story" as provided in this chapter, shall be excluded when calculating residential floor area ratio. Such underfloor space shall, however, be included as part of "floor area, gross" when determining required nonresidential parking spaces as stipulated in §4.30.040.

Floor-area ratio (FAR): Determined by dividing the gross floor area of a specified building(s) on a lot by the net lot area; provided, however, that on flag lots, all portions of fee access corridors which are less than 25 feet in width shall be excluded from floor area calculations.



$$\text{FAR} = \frac{\text{GROSS FLOOR AREA}}{\text{NET LOT AREA}}$$

$$\left(\text{EG: } \frac{5,000}{10,000} = \text{FAR } 0.5\right)$$

Fig. 1.30-2
Floor Area Ratio

Future width line:

A line representing the maximum planned width of a right-of-way, as shown on maps included in any officially adopted report or ordinance. This includes the 1971 Ruth and Going Future Width Line Study.

Guest room: A room within a dwelling which is intended, arranged or designed to be occupied or which is occupied by one or more guests, but in which there are no cooking facilities.

Height: The dimension measured by the vertical distance from the final grade to the top of a building or structure. On sloping lots or lots with irregular topography, height shall be measured vertically upward from a hypothetical surface representing the final grade as projected through the structure site (see Figure 1.30-3b for measurement details).

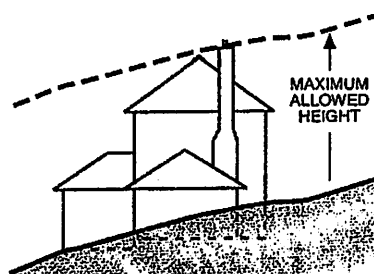
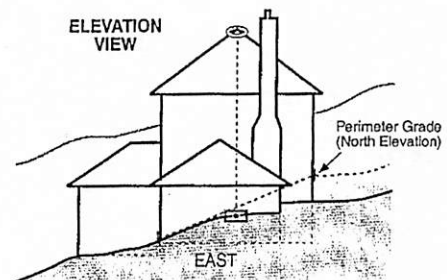
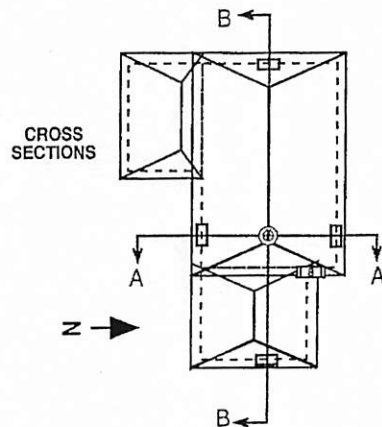
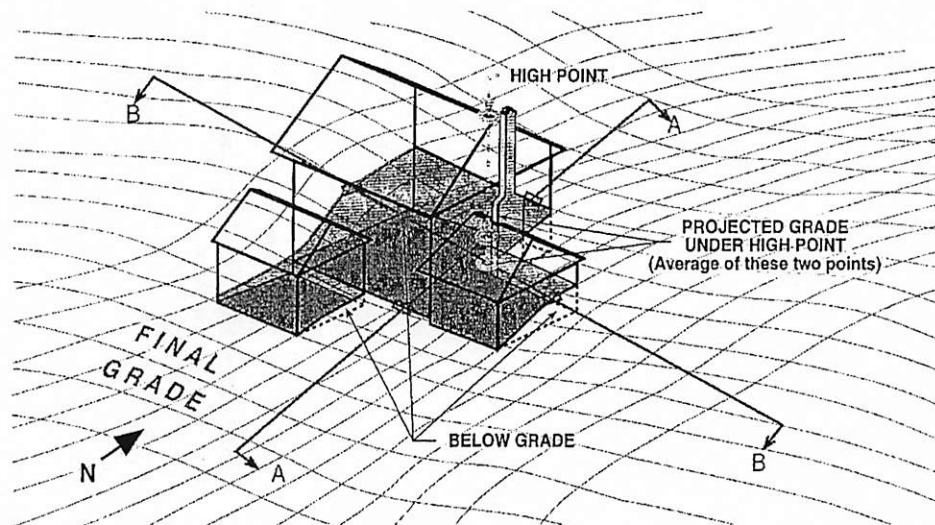


Fig. 1.30-3a
Building Height

Fig. 1.30-3b
HEIGHT MEASUREMENT
(Irregular Topography)



Legal-nonconforming use, lot, or structure: A use, lot, building or structure that was lawful when brought into existence, but does not comply with the currently effective use provisions, permitting requirements or development standards of this zoning ordinance. See Chapter 4.50.

Livestock: Domestic animals kept on a farm or ranch and raised for sale and profit.

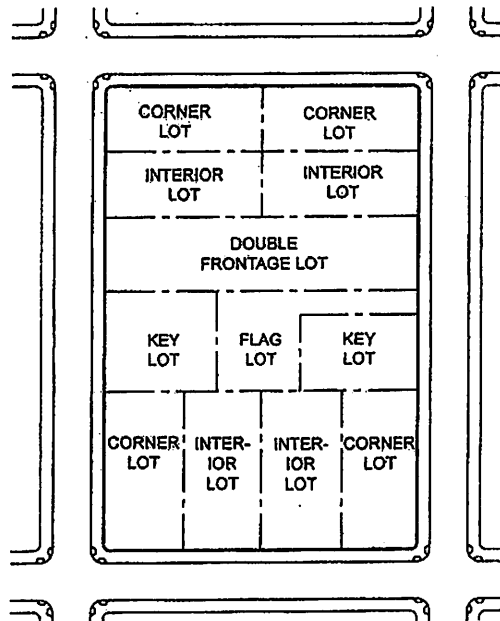
Lot: A fundamental unit of land that may be lawfully sold as a separate parcel in conformance with the applicable lot-legality provisions of Division C12 of the County Ordinance Code and the applicable subdivision and lot-legality provisions of state law.

Lot area, gross: The area specified as gross lot area on a recorded parcel map, tract map or record of survey. Also, the total area of any lot whose deed contains a legal description that includes land underlying public or private rights-of-way as fee-title portions of the lot.

Lot area, net: The net area of a lot specified as such on a recorded parcel map, tract map or record of survey, or the total land area of any lot exclusive of land underlying public or private rights-of-way.

Lot, corner: A lot situated at the intersection of two (2) or more streets, or bounded on two (2) or more adjacent sides by street lines. If the interior angle of the intersecting street lines is 135 degrees or wider, the lot shall not be deemed a corner lot.

Fig. 1.30-4
Classification of Lots



Lot coverage: The footprint of all buildings and structures over 30 inches in height. Covered patios, carports, arbors, and similar structures are counted in lot coverage. Eaves are excluded provided they do not project more than two and one-half feet.

Lot depth: The average distance from the front property line (or edge of right-of-way) to the rear line measured in the general direction of the side lines of the lot.

Lot frontage: The boundary of a dedicated public or private road right-of-way as it fronts along a lot. To determine the front lot line for setback purposes, see "lot lines."

Lot, flag: A lot, generally located to the rear of another lot, whose frontage to a street is provided by a fee access corridor, or whose access is provided by an easement through the parcel with actual frontage along such street. [See Fig. 1.30-4]

Lot, interior: A lot with street frontage and whose side lot lines are the side lot lines of adjacent lots that front on the same street. [See Fig. 1.30-4]

Lot, key: The first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, exclusive of the width of any alley, and fronting on the street which intersects or intercepts the street on which the corner lot fronts. [See Fig. 1.30-4]

Lot lines: The lines bounding a lot as defined herein, with the following specific classifications and criteria for determining setbacks. For purposes of this definition, "street" shall mean "right-of-way," as defined herein.

1. The front lot line is normally the line that abuts a street.
2. The front lot line of a corner lot is normally the shorter line (representing the narrower lot dimension) of the two lines abutting a street. If a corner lot's overall depth-to-width dimensions are more strongly representative of the lot's orientation such that an alternate frontage determination would yield a larger building envelope, the right-of-way line that corresponds to the lot width (longer line in that case) shall be deemed the front lot line for setback purposes. In the case of a curved corner, a determination may be made by the zoning administrator that an appropriately situated point along that curve shall demarcate the front lot line from the exterior side lot line.
3. The front lot line of a flag lot shall be based on the lesser dimension (width/length) of the main portion of the lot (portion that excludes access corridor). The line abutting the interior terminus of the access corridor that corresponds to that lesser lot dimension shall be deemed the front lot line. When a fee access corridor exceeds 25 feet in width, the front lot line shall be the street frontage at the access corridor. For a variable-width access corridor the front lot line shall be considered the width line at the point at which the access corridor exceeds 25 feet.

4. The side lot line is the line that intersects the front lot line, the rear lot line, and any other side lot line.
5. The side exterior lot line of a corner lot is the (generally) longer of the two lines abutting a street (see Paragraph 2 above).

6. The rear lot line is generally the line that is most distant and opposite the front lot line. On a triangular lot or other lot where no logical rear lot line exists, the rear setback may be taken as a radius from the point of intersection of side lines most distant and opposite the front lot line. Multiple line segments that logically fit the intent of this definition may also be considered rear lot lines

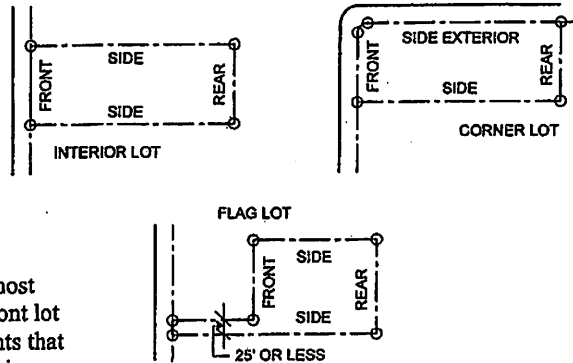
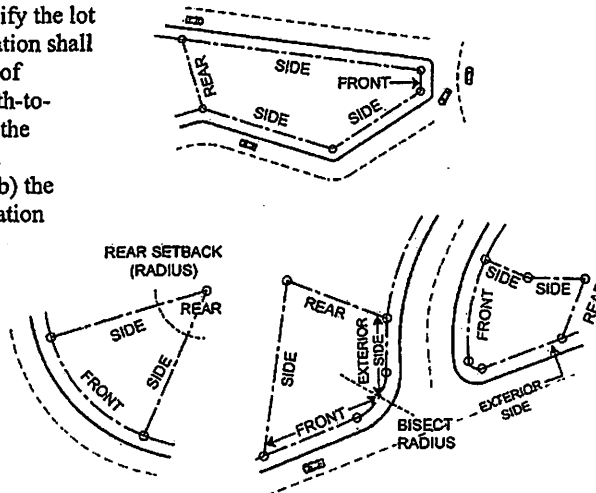


Fig. 1.30-5
Lot Lines and
Lot Frontage

Where the above provisions are inadequate to address an unusually configured lot, the zoning administrator shall classify the lot lines on that lot. The determination shall consider in the following order of importance: (a) the general depth-to-width orientation of the lot and the establishment of a practical and reasonable building envelope, (b) the orientation of the lot and orientation of the determined building envelope as it would most harmoniously concur with development and/or building envelopes on the adjacent lots, (c) the existing development on the subject lot and the degree to which it may conform to more than one possible determination, and (d) other factors specific to the lot that would affect the practicality and reasonableness of a determined building envelope. See § 4.20.020 for additional lot-line and setback criteria for accessory buildings on lots with unusual configurations.



Manufactured home: A factory-built single-family structure as defined in Section 19971 of the California Health and Safety Code or a manufactured home as defined in Section 18007 of the California Health and Safety Code. Mobilehomes, which are structures transportable in one or more sections, designed to be used as a residential dwelling unit and not having wheels or axles permanently attached to their body or frame, are considered manufactured homes if they are built in conformance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC Section 5401) and located on a foundation system pursuant to Section 18551 of the California Health and Safety Code. Manufactured homes or mobilehomes do not include recreational vehicles, or commercial coaches, as defined in Section 19971 of the California Health and Safety Code.

Marginal agricultural lands: Lands that may be considered unsuitable for agricultural use because of proximity to incompatible non-agricultural uses, inadequate water availability; or marginal soil type such as Class III or poorer.

Mine, idle: A mining operation that is curtailed for one (1) or more year(s) by more than 90 percent of the operation's previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

Mobilehome: See "manufactured home."

Nonconforming use, lot, or structure: The term "nonconforming" shall mean legal-nonconforming. See "legal-nonconforming use, lot or structure."

Official plan line: A line representing the maximum planned width of a right-of-way, including future right-of-way, as defined in Section C12-700 of the County Ordinance Code.

Open land historic: The unimproved or undeveloped portion of the land on which the historic buildings or structures exist and which is essential to the integrity of the historical site or place.

Open space land: Any parcel(s) or portion of a parcel that is essentially unimproved and devoted to an open space use. This term includes land(s) designated for permanent open space preservation as shown on a recorded subdivision map, approved site plan, or other development plan, and which may be the subject of an easement or other permanent conveyance of development rights restricting the use and development potential of the open space in accordance with applicable general plan policies, zoning regulations, mitigations, or conditions of approval.

Person: Any individual, firm, association, corporation, organization or partnership, or any city, county, district or state, or any public entity or department or agency thereof.

Public water supply: Water service furnished by a public utility, a county water company or district, a municipal water company or district, a community service district or other public water district.

Reclamation: The combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining uses so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and pose no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, re-soiling, re-vegetation, soil compaction, stabilization, or other measures.

Reclamation plan: A plan providing for reclamation of lands upon which surface mining operations either have been or will be conducted.

Registered historic cultural resource: A registered historic cultural resource is any building, site, structure, object, or district which is registered in the National Register of Historic Places, California Historical Landmarks Program, California Register of Historical Resources, California Points of Historical Interest Program, or formally designated as such by a resolution of the Santa Clara County Board of Supervisors.

Right-of-way: The total (improved and unimproved) area of land within the bounds of a dedicated public or private road. Also includes any ingress-egress easement that provides the right to pass over one property to access another.

Riparian: That area within and adjacent to waterways, water bodies and areas with special underground wetness characteristics which support a special type or lush condition of vegetation not found in the general area.

Sanitary sewers: Sanitary sewers shall mean those sewer systems operated and maintained by a county, a municipality, or a sanitary sewer district.

Setback: The horizontal separation required between lot lines (and/or rights-of-way, see below), and the nearest point of a building or structure. The setback line shall be deemed to mean a line parallel to the lot line separated by the required setback distance.

The measurement shall be taken from the rough exterior building walls (structural wall components; excluding trim, exterior siding, stucco or other such finishing materials), or other vertical structural components, to the nearest lot line, exclusive of those architectural features listed in Section 4.20.110 as exempt. Setbacks shall also be taken from the edge of any right-of-way that abuts or passes through the subject lot. In situations where the property line lies within the right-of-way, the setback shall be taken from the edge of such right-of-way. However, if an official plan line or future width line has been established for the abutting right-of-way, setback measurement shall be taken from such official plan line or future width line.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above.

An attic, regardless of its interior dimensions, shall not be considered a story provided it remains unconditioned space, is accessible by nothing more substantial than a pull-down stairway or ladder, and contains no dormers with the exception of minimal vent features.

Under-floor "basement" space, qualifying as *floor area* with minimum clearance of seven (7) feet in each of three dimensions for at least 70 contiguous square feet in floor area, shall not be considered a story unless either of the following applies:

1. The finished floor level directly above such basement space is more than six (6) feet above grade for more than 50 percent of the total basement floor area, or
2. The finished floor level directly above such basement space is more than 12 feet above grade at any point.

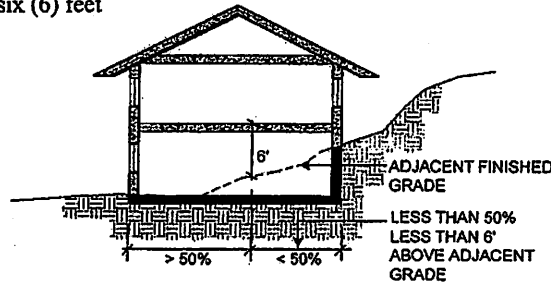


Fig. 1.30-6
Story; Basement

"Grade" shall be final grade at the building's perimeter, and shall be projected through the subject basement space when appropriate.

Determination of a building's number of stories shall be based on qualifying floor area being situated directly above other qualifying floor area.

Story, half: A portion of a building within a hip, gable or similar sloping roof containing space that meets the dimensional criteria for habitable space (70 square feet or larger with a minimum seven (7) feet clearance in each of three (3) dimensions), but is limited such that the wall plates on at least two (2) opposite exterior (vertical) walls, which constitute at least 50 percent of the perimeter wall area at that floor level, are not more than two (2) feet above rough floor level.

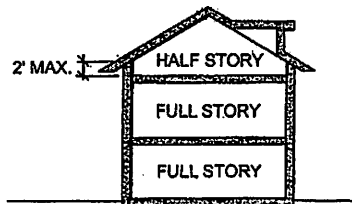


Fig. 1.30-7
Half Story

Structural alterations: Any change in the supporting members of a building, such as bearing walls, foundation, roof, columns, beams or girders.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. The term "structure" includes "building."

Urban service area: Land within the sphere of influence of a particular city, which is served by urban facilities, utilities and services, or which is proposed to be served by urban facilities, utilities and services through a city-adopted capital improvement program. In addition to being regulated by the County zoning ordinance, unincorporated land within a city's urban service area is subject to the land use policies of that city's general plan. The urban service area boundary shall be established by the Santa Clara County Local Agency Formation Commission in accordance with the applicable provisions of Sections 56300, 56301 and 56425 of the California Government Code.

Use: The purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is or may be occupied or maintained. When used as a verb, standard dictionary definitions of "use" shall apply.

Watercourse: A running stream fed from permanent or natural sources, including rivers, creeks, runs and rivulets. There must be a stream, usually flowing in a particular direction (though it need not flow continuously) in a definite channel, having a bed or banks and usually discharging into some stream or body of water.

Yard: An open space, adjacent to a dwelling or other main building, that is generally unoccupied and unobstructed from the ground upward, except as otherwise provided in Chapter 4.20. The following are types of yards:

1. The front yard extends across the full width of the lot lying between the front lot line and the nearest line of the dwelling.
2. The side yard lies between the side lot line and the side wall(s) of the dwelling and extends from the front yard to the rear yard.
3. The rear yard extends across the full width of the lot lying between the rear lot line and the nearest line of the primary dwelling.

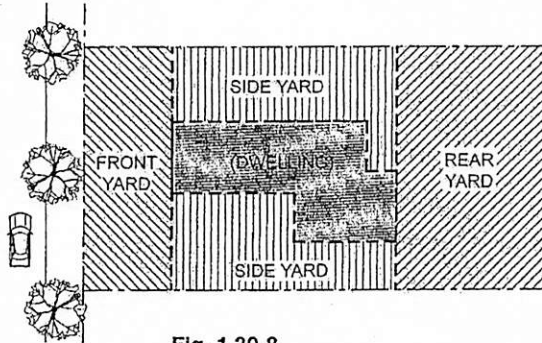


Fig. 1.30-8

SECTION 5: Section 5.50.030 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.030 Approval Authority

The Zoning Administrator shall be the approval authority for design review applications, except where otherwise expressly specified.

SECTION 6: Section 5.50.050 of Chapter 5.50, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.050 Statutory Exemptions

The following types of structures are deemed minor in character and are in all cases exempt from the design review process, except where any conflicting “-d₁” process requirements apply (§ 3.20.040):

- A. House additions of 1,000 square feet or less in floor area;
- B. Detached buildings and structures 1,000 square feet or less in floor area;
- C. Decks whose floor surface is 30 inches or less above final grade, and grade-level pavement for which grading performed prior to paving does not require a grading permit;
- D. Any decks (regardless of height), carports, trellises or other structures attached to a dwelling that are 1,000 square feet or less in floor area;
- E. Fences three (3) feet or less in height.
- F. Open fences, having a composition (solid components vs open “gap” components) where not more than 25% of the surface area is solid when viewed from a position perpendicular to the fence; and that meet the applicable fence height requirements of Section 4.20.050.
- G. Retaining walls that are not subject to a grading permit;
- H. Solar (photovoltaic) panels; and
- I. Swimming pools;

The cumulative construction of multiple statutory exempt projects on a lot may, at the discretion of the Zoning Administrator, be subject to the design review process.

SECTION 6: Section 5.50.060 of Chapter 5.60, Article 5 of Appendix I, Zoning, of the County of Santa Clara Ordinance Code, is amended to read as follows:

§ 5.50.060 Discretionary Exemptions

The following project categories may, at the discretion of the Zoning Administrator, be considered minor and exempt from the design review process, except where any conflicting “-d₁” process requirements apply (§ 3.20.040):

- A. House additions with floor area between 1,001 and 2,500 square feet;
- B. Detached buildings and structures with floor area between 1,001 and 2,500 square feet;
- C. Decks where those portions of floor surface that exceed 30 inches in height above grade comprise a total surface area exceeding 1,000 square feet;
- D. Fences in “-d” combining districts or along designated scenic roads which conform to the provisions of this ordinance regulating fence height (excluding certain “open” fences, see subsection 5.50.050(F));
- E. Projects in “-d₁” zoning districts meeting exemption criteria specified in Section 3.20.040 (i.e. “Tier 1,” and “Sites Not Visible”), regardless of any conflicting standards within this section, and;

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- F. Other minor construction similar in scale to the above categories and having low potential for visual impact.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on _____ by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

James T. Beall, Jr., Chair
Board of Supervisors

ATTEST:

Phyllis A. Perez
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

Lizanne Reynolds 8-14-06
Lizanne Reynolds
Deputy County Counsel