

ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY  
PLANNING DEPARTMENT



STAFF REPORT

TO Members of the Alameda County Planning Commission  
RE Scenic Corridor Combining District  
HEARING DATE November 5, 2012

**GENERAL INFORMATION**

The following is an overview of issues pertaining to scenic corridors within unincorporated Alameda County.

**STAFF RECOMMENDATION**

Take public testimony, review and provide comments on the draft Scenic Corridor Combining District.

**STAFF ANALYSIS**

On October 15, the Commission heard a presentation from staff explaining the need to amend the County's Zoning Ordinance to address Scenic Corridors, specifically the area in Dublin Canyon adjacent to Interstate 580. Staff went on to describe the topics that could be addressed within the designation and a process and timeline for its preparation. The Commission directed staff to proceed with the project as proposed; however, staff should draft an Ordinance which may be applied throughout unincorporated Alameda County.

*Ordinance Development*

To date, staff has conducted the following activities:

- Researched Federal and State law. Staff has researched State and Federal laws and found no regulations that would preclude the County from establishing a Scenic Corridor Combining District.
- Reviewed the Alameda County General Plan. Staff has reviewed the County's Scenic Route Element, Specific Plan for Areas of Environmental Significance, the Castro Valley, Eden Area, and East County General Plans to determine the policy direction given by the General Plan. There are a number of policies throughout the General Plan which support the creation of a combining district. Certainly, the Scenic Route Element is the most prominent example as it is intended to establish "standards for development of a scenic route system and preservation and enhancement of adjacent scenic areas, and other areas of the County visible from the scenic route." The Specific Plan for Areas of Environmental Significance includes a section on the topic of scenic routes and later identifies areas as "Corridor Study Priorities". The Specific Plan also highlights implementation measures and identifies the Site Development Review process as the appropriate process under which projects should be reviewed. Currently, there is no County Ordinance that addresses development within scenic routes, and so the proposed amendment would serve to implement both the Scenic Route Element and the relevant portions of the Specific Plan for Areas of Environmental Significance.

- Reviewed Ordinances Prepared by Other Planning Departments. Staff has compiled a summary of Ordinances within Alameda County which may address development in scenic corridors. This summary is included as Attachment B. Of all of the cities within Alameda County, only the cities Oakland and Pleasanton have enacted combining districts to address development adjacent to scenic routes. In order to bolster staff's understanding of the various ways in which to regulate development in such areas, staff sought examples from throughout the state and across the nation. Staff's research included Ordinances and policies from places as diverse as Santa Clara, Napa, Alpine and Tulare Counties; Moraga; Calabasas; Los Gatos; Pinellas, FL; Greensboro, NC; and Homer, AK.
- Consulted with Agencies and Committees. Staff has, will or will continue to seek input from County Counsel, the Public Works Agency, the Unincorporated Services Committee, Agricultural Advisory Committee, Sunol Citizens Advisory Committee (SCAC), and the Castro Valley Municipal Advisory Council (CVMAC).

Following this meeting, the matter will be forwarded to the Agricultural Advisory Committee, Castro Valley Municipal Advisory Council and Sunol Citizen's Advisory Committee for consideration. Staff has also sought or will seek comments from County Counsel and the Public Works Agency. Upon completion of this referral process, the matter will be brought back to the Planning Commission for approval.

#### *Issues Addressed*

The amendments before the Commission today address the following issues with respect to development within areas of visual significance.

- Land Use
- Building Height, Mass, and Siting
- Building Materials, Colors and Styles
- Parking
- Signs, Billboards, and Telecommunications Towers
- Outdoor Lighting
- Landscaping and Grading
- Tree and Vegetation Conservation

#### *California Environmental Quality Act (CEQA)*

Section 15061(b)(3), the general rule exemption, states "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment that the activity is not subject to CEQA." Staff believes that the proposed amendment would qualify for an exemption on the grounds that they would further regulate development of land identified for its scenic value. Future development would be subject to more stringent standards designed to reduce the visual impact of new structures, parking, signs, and other features that might obstruct existing vistas. Moreover, the Alameda County General Plan contains numerous policies and standards that are designed to protect scenic vistas. Therefore, any development determined to be consistent with the development standards of the Alameda County General Plan and Zoning Ordinance will not result in any significant environmental impacts.

Therefore, no significant environmental impacts are expected to result as a consequence of this Ordinance amendment.

## CONCLUSION

The attached ordinance amendments will establish development standards and regulations within scenic corridors located within unincorporated Alameda County. In preparing these amendments, the County wishes to minimize the loss of and disturbance to areas of scenic value. The amendments establish design standards and Site Development Review process to ensure that these areas continue to be preserved for future generations. At this time staff requests that the Planning Commission consider the proposed amendments and provide comments and additional direction to staff.

## ATTACHMENTS

- A. Proposed Ordinance Amendments
- B. Summary of Alameda County Ordinances

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## SC DISTRICTS

### Chapter ##.###- SC DISTRICTS

#### **##.###.010 - Purpose.**

The district, hereinafter designated as combining SC (scenic corridor) district, is intended to be combined with other districts containing lands located within scenic corridors as designated by the board of supervisors. The purpose of this chapter is to provide guidelines and approval procedures for the development and improvement of land within SC districts in unincorporated Alameda County.

#### **##.###.020 - Areas subject to regulations.**

The following areas are subject to the provisions of this chapter:

#### **##.###.030 - Regulations.**

In a combining SC district, all regulations shall remain the same as in the district with which it is combined, except as to the matters hereinafter described.

#### **##.###.040 - General provisions.**

- A. All new development within the district shall comply with the provisions of this chapter, except the following shall be exempt from compliance:
1. Farm or agricultural-related structures outside of the forty (40) foot roadway buffer.
  2. Single-family dwellings and manufactured homes on an existing lot of record.
  3. Developments existing on the effective date of this chapter, provided that expansions or additions to existing development on or after the effective date of this chapter shall be subject to compliance with these regulations.
- B. In the event of a conflict among the regulations in this chapter and those elsewhere in this code, the regulations in this chapter shall prevail. The provisions of this chapter shall also apply to projects undertaken by public agencies and special districts except for the maintenance of existing county public roads within existing rights-of-way.
- C. No permit or administrative or discretionary approval shall be issued to authorize any grading or earthmoving activity, including grading or earthmoving necessary to create or improve an existing driveway, road or other access, or benches or shelves, if such earthmoving or grading would occur on slopes of fifteen (15) percent or more unless a variance has been granted in accordance with sections 17.54.090 through 17.54.120. Agricultural roads within planted areas subject to erosion control plans under Chapter 15.36 of the code shall not be subject to this requirement.
- D. All future building sites identified on either a tentative parcel map, final map, or subdivision map shall be reviewed and conditions of approval established to ensure conformity with the purpose and intent of this chapter.
- E. Applications requiring the issuance of a conditional use permit, as required by the General Ordinance Code, will be reviewed for their adherence to the requirements of this chapter during the application process for the issuance of the conditional use permit.

#### **##.###.050 - Uses Prohibited.**

- A. Commercial telecommunication towers and facilities.
- B. Overhead utilities including electrical transmission lines, fiber optic cable, telephone, cable TV and other telecommunication lines.
- C. Power generation facilities, except that solar and wind powered facilities that are clearly incidental to a use that is permitted by the existing zoning are allowed as follows:
1. Solar power facilities that do not exceed the building height that is allowed within the zoning district applicable to the property;

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2. Small wind energy systems meeting the requirements set forth in California Government Code Section 65892.13.

### **###.###.060 - SC Districts - Site development review—When required.**

Site development review pursuant to Section 17.54.210 shall be required for any project for which a building or grading permit is required, excluding grading activities described in section ###.###.040 paragraph C.

### **###.###.070 - SC Districts - Development guidelines.**

All development is subject to site development review pursuant to Sections ###.###.060 (SC Districts--Site Development Review—When Required) and 17.54.210 (Site Development Review) et seq. and to the following provisions:

- A. Development or improvements within a SC district shall comply with the following guidelines:
  1. The design and location of each building and landscaping shall create a compatible visual relationship with surrounding development and with the natural terrain and vegetation. Road widths and road configurations should be considered as part of the development's design.
  2. Buildings and landscaping shall be so located that each does not create a walled effect along the scenic corridor. The positioning of buildings shall be varied in order to create a complimentary relationship between mass and void.
  3. All developments shall maintain a one hundred (100) foot setback for all buildings, structures and property improvements such as parking lots, except for approved road, driveway and utility crossings. No structure within the one hundred (100) foot setback shall exceed twenty (20) feet in height.
  4. A roadway buffer of at least forty (40) feet shall be provided within the required development setback, abutting the right-of-way of the scenic corridor. Where existing trees and significant vegetation exist within the roadway buffer, they shall be retained as determined appropriate and directed by the planning director. Vegetation within a roadway buffer that is required to remain within a roadway buffer may be pruned and/or removed only if necessary to ensure proper sight visibility, remove safety hazards or dying or diseased vegetation, or for other good cause as approved by the planning director.
  5. Existing topography, vegetation and scenic features of the site shall be retained and incorporated into the proposed development wherever possible. Manmade structures, as a visual element in the scenic corridor, should be secondary in importance to natural growth.
  6. Each structure or feature reviewable under this chapter shall be limited to scale and siting to reduce visual dominance or obstruction of existing landforms, vegetation, water bodies and adjoining structures.
  7. Each structure shall be constructed, painted and maintained and all planted material shall be planted and maintained to complement and enhance scenic views and the natural landscape.
  8. Unnatural and conflicting aesthetic elements shall be eliminated to the extent feasible consistent with safety requirements (for example, retain street lighting, but place wiring underground). Where it is not possible to locate such a feature out of view, it must be located in an area so as to minimize visibility from a scenic corridor or screened from view by planting, fence wall or berm. Where the screen consists of a fence, wall or berm, it may not be higher than six feet. Screening shall consist of primarily natural materials rather than solid fencing. Preference shall be given to vegetation in conjunction with a low earth berm.

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9. Lighting shall be compatible in type, style and intensity to the surrounding elements and not cause undue or aggravating disruption, glare and brightness.
  10. Grading or earth-moving shall be planned and executed in such manner that final contours appear consistent with a natural appearing terrain. Finished contours shall be planted with plant materials native to the area so that minimum care is required and the material is visually compatible with the existing ground cover.
  11. A road pattern, or characteristics of any road pattern, proposed as part of a development shall be designed and constructed to contribute to the scenic character of the landscape in view. New roads and driveways constructed within the scenic corridor shall not be dominant visually and there should be only a minimal amount of road in view within the roadway buffer.
  12. The number of access points to and from the scenic corridor shall be minimized consistent with safety and circulation needs.
  13. Parking on the scenic corridor roadways should be minimized.
  14. No advertising signs shall be permitted within forty (40) feet of a public road or right of way.
  15. All utility lines serving uses proposed or developed within the scenic corridor, including electric, telephone, data and cable television, shall be installed underground within the roadway buffer and development setback area. Underground utility trenches must be revegetated. Utility boxes and cabinets that are now or must, by necessity, be located above ground must be shielded from view from the scenic corridor with existing vegetation and/or revegetation. Any above-ground boxes that cannot be buried shall, in addition to being screened by vegetation, shall be painted a neutral or earth tone color or otherwise made to blend in with their surroundings.
- B. The planning director shall hold a public hearing regarding a site development review application.
- C. Violations of this section shall be subject to enforcement, penalties and abatement under chapters 17.58 and 17.59 of this title.

### **###.080 - SC Districts - Findings and appeal.**

- A. If the planning director recommends approval under this chapter, they shall make written findings and provide a copy to the applicant within ten (10) days of the decision.
- B. A decision of the planning director may be appealed to the planning commission.
- C. A person desiring to appeal an action taken under this chapter shall do so by filing written notice of appeal within ten (10) days after the decision. If no appeal is filed, the decision on the application is final.

# Summary of Ordinances Addressing Scenic Routes or Views in Alameda County

City	Combining District?	Separate Zone?	Comments	Permit Type
Alameda	No	Possibly	Alameda does not have a combining district specifically for scenic routes; however, the City does have an Open Space District (O) that is provided in Chapter 18.92 Ordinance which may be applied to "scenic vistas". There is no specific district for scenic corridors.	Minor Design Review or Use Permit
Albany	No	No	The City of Albany has both a Hillside Overlay district and Residential Hillside District, but neither is intended to protect the views within a scenic corridor.	N/A
Berkeley	No	No	Berkeley has a Hillside Overlay district, but that district is not intended to protect the views of travelers rather it protects property owners from view obstructions.	N/A
Dublin	No	No	Not addressed.	N/A
Emeryville	No	No	Not addressed.	N/A
Fremont	Possibly	Yes	The City of Fremont has a number of combining districts, but none specific to scenic corridors. However, the Fremont does have a district called an "Interim Study District" that may be created to regulate development in an area while additional studies are being conducted. The district may be found in Sections 8-21800—8-21806 of the Fremont Ordinance Code. The City also has an Open Space District that includes several provisions to minimize visual impacts.	Conditional Use Permit
Hayward	Possibly	Possibly	Hayward does not have a combining district specifically for scenic routes; however, the City does have a Special Design Overlay District (SD) that is provided in Section SEC. 10-1.2600 of their Ordinance. The City also has a Special Lot Standards Combining District (B) that may be found in SEC. 10-1.2400 of their Ordinance. The City of Hayward has an Open Space and Parks and Recreation district which may be used to regulate development in the scenic corridors. There is no specific district for scenic corridors.	Site Plan Review
Livermore	No	Possibly	The City of Livermore has an Open Space Zone (Section 3.03.170) which may be applied to lands "found to be in the public interest to preserve". There is no specific district for scenic corridors.	Most uses require a Conditional Use or Zoning Use Permit.
Newark	No	Possibly	Chapter 17.36 of Newark's Ordinance includes an Open Space District. There is no specific district for scenic corridors.	Conditional Use Permit

# Summary of Ordinances Addressing Scenic Routes or Views in Alameda County

City	Combining District?	Separate Zone?	Comments	Permit Type
Oakland	Yes	No	The City of Oakland does have regulations specific to scenic routes. Chapter 17.90 of their Ordinance provides Scenic Route Combining Zone Regulations (S-10).	Design Review and Conditional Use Permit for development in Shepard's Canyon area.
Piedmont	No	No	Not addressed.	N/A
Pleasanton	Yes	No	The City of Pleasanton does have regulations specific to scenic routes. Chapter 18.78 of their Ordinance addresses development in the West Foothill Road Corridor.	Design Review
San Leandro	Possibly	Possibly	San Leandro does not have a combining district specifically for scenic routes; however, the City does have a Special Review Overlay District (S) that is provided in their Ordinance. The district may be applied to "geographic areas of the City with unique needs, which may be designated by the City Council, consistent with General Plan policies." San Leandro also has a Conservation and Interim Study Overlay district. The City also has an Open Space district which may be used for scenic view protection.	Use Permit, Site Plan Review (Open Space District)
Union City	No	Possibly	Union City does not have a combining district specifically for scenic routes; however, the City does have a Open Space District (OS) that is provided in Chapter 18.92 of their Ordinance which may be applied to "scenic lands".	Site Development Review