



LAND USE SERVICES DEPARTMENT PLANNING STAFF REPORT

HEARING DATE: October 23, 2014

AGENDA ITEM NO: 4

Project Description:

Applicant: Land Use Services Department
Proposal: A Development Code Amendment to revise the provisions for the Open Space Overlay to clarify the regulations regarding development along scenic routes.
Community: Countywide/All Supervisorial Districts
JCS: P201400071
Staff: Jim Squire

SUMMARY:

Land Use Services staff has been reviewing the regulatory language contained in the Development Code relative to scenic routes, and recently shared the Development Code language with the California Department of Transportation (Caltrans). In the Caltrans Scenic Highway Guidelines, the State lists five legislative elements required for a jurisdiction's Corridor Protection Program to be considered consistent with the State's guidelines for designating scenic highways. Caltrans staff reviewed the County scenic route protection regulations and recommend minor adjustments.

Staff has reviewed the State's recommendations and has made the appropriate changes to the language to make the County's regulations consistent with the State guidelines. These changes involve additional language pertaining to the viewshed analysis, signs and wireless telecommunication facilities. If adopted, these new regulations would require a viewshed analysis for all discretionary projects if it is determined through the California Environmental Quality Act (CEQA) analysis that the proposed project(s) may have a significant impact on scenic resources. The visual impact analysis would include recommendations for mitigation measures, as needed to minimize or avoid significant impacts to scenic resources.

Additionally, the proposed amendment would add language relative to on-site signs, emphasizing that the environmental review required for discretionary projects in conjunction with the regulations in Chapter 83.13 [Sign Regulations] will ensure that the scenic quality of properties located within the overlay will be addressed. The proposed amendments would also add language relative to wireless telecommunication facilities, stating that such facilities shall be allowed within the scenic resources overlay area, pursuant to Chapter 84.27 [Wireless Telecommunication Facilities] subject to the measures of Section 84.27.050 [Minimizing Impacts] to minimize their visibility to the greatest extent feasible.

The proposed revisions have been sent back to Caltrans staff for their final concurrence. Staff has not received a response yet, but based on the minor nature of their original comments, no additional concerns are anticipated.

Action taken by the Planning Commission on this item may be appealed to the Board. Yes No
 Note: Recommendations to the Board of Supervisors are not appealable.

FINDINGS:

The following findings and evidence to support such findings must be made by the Commission in making its recommendation to the Board to approve the proposed Development Code Amendment:

1. The proposed amendments are consistent with the General Plan and any applicable community plan or specific plan in that the proposed modifications simply clarify the County's regulations without allowing any new development.
2. The proposed amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the County.
3. The proposed amendments are internally consistent and with the applicable provisions of the Development Code in that the proposed modifications simply clarify the County's regulations without allowing any new development.
4. The proposed amendment is exempt from the California Environmental Quality Act (CEQA) because it will not result in a direct or reasonably foreseeable indirect change in the environment (Section 15060(c)(2) of the CEQA Guidelines) and the amendments are covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment (Section 15061(b)(3) of the CEQA Guidelines).

RECOMMENDATION: Staff recommends that the Planning Commission recommend the following actions to the Board of Supervisors:

- A. ADOPT the proposed ordinance to amend the Development Code to revise the provisions for the Open Space Overlay to clarify the regulations regarding scenic areas;
- B. ADOPT the findings as contained in the staff report; and
- C. FILE the Notice of Exemption.

ATTACHMENTS:

1. [Proposed Development Code Section Changes \(Red-lined Version\)](#)

Attachment #1

Proposed Development Code Section Changes (Red-lined Version)

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CHAPTER 82.19 OPEN SPACE (OS) OVERLAY

Sections:

- 82.19.010 Purpose
- 82.19.020 Location Requirements
- 82.19.030 Special Requirements for Natural Resources
- 82.19.040 Development Standards within Scenic Areas
- 82.19.050 Development Standards for Trails

82.19.010 Purpose

The Open Space (OS) Overlay established by 82.01.030 (Overlays) is created to address the issue of open space from many perspectives. It does not simply protect natural open space areas for wildlife; the Open Space Overlay strikes a balance between the needs of an urbanizing County and the many uses, which require open lands. The following are descriptions of the many types of open space considered in the overlay:

- (a) **Natural Resources.** Open space for the protection of natural resources encompasses a variety of areas, which are required to maintain biological diversity, to protect significant natural features, and to ensure that future generations will have access to a quality “natural” experience. The County recognizes that natural areas in and adjacent to the urbanizing portions of the County are under substantial pressure. As urbanization of the Valley, Mountain and Desert Regions of the County continues, the loss of areas, which are capable of supporting both common and endangered plant and animal species, is accelerating. For this reason, protection of natural resources, or the proper management of natural lands for multiple users, is an important focus of the Open Space Overlay.
- (b) **Scenic Resources.** Scenic areas in the County contain vistas that rival many found elsewhere in the State and the nation. These scenic resources can be deteriorated by increased urbanization along scenic corridors. The Open Space Overlay seeks to preserve these resources and to provide additional opportunities for the public to enjoy these pleasing features.
- (c) **Trails.** Because they provide public access to open space lands and serve as an active recreational amenity, trails form an important part of the overlay. Trails will be used to provide entry and to direct public access to those areas which can safely withstand human activity, to provide alternative transportation opportunities, and to provide a sense of County history.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

82.19.020 Location Requirements

The Open Space Overlay shall be applied to the areas described above.

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Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

82.19.030 Special Requirements for Natural Resources

Areas designated for Wildlife Corridors, Special Policy Areas or Buffer Zones: When a land use is proposed, or an existing land use is increased by more than 25 percent of disturbed area within an OS Overlay designated as a wildlife corridor, special policy area or buffer zone, the land use application shall include a biotic resources report or other special report as appropriate for the subject area prepared as follows, except where the Director finds that prior environmental studies approved by the County have determined that the site does not contain viable habitat.

- (a) **Report content.** If a biotic resources report is required, it shall identify all biotic resources located on the site and those on adjacent parcels that could be impacted by the proposed development and the impacts on the area as a wildlife corridor. If another special report is required, it shall identify all resources that are sensitive and need protection. The report shall also identify mitigation measures designed to reduce or eliminate impacts to the identified resources, and shall be submitted along with the application for the proposed development
- (b) **Report preparation.** The biotic resources report shall be prepared by an appropriate expert (e.g., a qualified biologist, botanist, herpetologist, or other professional "life scientist"). The professional qualifications of the person preparing a biotic resources report shall be in compliance with Section 82.11.050 (Professional Qualifications). The professional qualifications of the person preparing a paleontologic resources report shall be in compliance with Section 82.19.040 (Paleontologist Qualifications). The professional qualifications of the person preparing another special report may also require special qualifications in compliance the Department's procedures.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

82.19.040 Development Criteria within Scenic Areas

- (a) **Applicability.** The criteria below shall be used to evaluate a land use proposed within a scenic area in an Open Space Overlay and shall apply to:
 - (1) Areas with unique views of the County's desert, mountain and valley areas or any other aesthetic natural land formations.
 - (2) An area extending 200 feet on both sides of the ultimate road right-of-way of State and County designated Scenic Highways as identified in the General Plan. The area covered may vary to reflect the changing topography and vegetation along the right-of-way.
- (b) **Report.** A special viewshed analysis shall be required if it is determined through the preparation of an Initial Study pursuant to the California Environmental Quality Act (CEQA) that the proposed project may have a significant negative impact on the scenic

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values of the subject parcel. **This analysis shall identify mitigation measures designed to reduce or eliminate potentially significant impacts to the viewshed.**

- (c) **Building and structure placement.** Structure placement **and style** shall be compatible with and shall not detract from the visual setting or obstruct significant views.
- (d) **Review area.** Land development proposals, including **but not limited to** residential facilities, commercial activities and mobile home parks/manufactured home land-lease community, shall be designed to blend into the natural landscape and maximize visual attributes of the natural vegetation and terrain. The design of development proposals shall also provide for maintenance of a natural open space parallel to and visible from the right-of-way.
- (e) **Access drives.** Right-of-way access drives shall be minimized. Developments involving concentrations of commercial activities shall be designed to function as an integral unit with common parking and right-of-way access drives.
- (f) **Landscaping.** The removal of native vegetation, especially timber, shall be minimized and replacement vegetation and landscaping shall be compatible with the local environment and, where practicable, capable of surviving with a minimum of maintenance and supplemental water. Landscaping and plantings shall not obstruct significant views, either when installed or when they reach mature growth.
- (g) **Roads, pedestrian walkways, parking and storage areas.** A large-scale development should restrict the number of access points by providing common access roads. Parking and outside storage areas shall be screened from view, to the maximum extent feasible, from either the Scenic Highway or the adjacent scenic or recreational resource by existing topography, by the placement of structures, or by landscaping and plantings which are compatible with the local environment and, where practicable, are capable of surviving with a minimum of maintenance and supplemental water.
- (h) **Above ground utilities.** Utilities shall be constructed and routed underground except in those situations where natural features prevent the underground siting or where safety considerations necessitate above ground construction and routing. Above ground utilities shall be constructed and routed to minimize detrimental effects on the visual setting of the designated area. Where it is practical, above ground utilities shall be screened from view from either the Scenic Highway or the adjacent scenic or recreational resource by existing topography, or by placement of structures.
- (i) **Grading.** The alteration of the natural topography of the site shall be minimized and shall avoid detrimental effects to the visual setting of the designated area and the existing natural drainage system. Alterations of the natural topography shall be screened from view from either the Scenic Highway or the adjacent scenic or recreational resource by landscaping and plantings which harmonize with the natural landscape of the designated area, and which are capable of surviving with a minimum of maintenance and supplemental water.

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- (j) **Timber harvesting.** Timber harvesting within or adjacent to the right-of-way shall be limited to that which is necessary to maintain and enhance the quality of the forest.
- (k) **Storage Areas.** Outside storage areas associated with commercial activities shall be completely screened from view of the right-of-way with landscaping and plantings that are compatible with the local environment and are capable of surviving with a minimum of maintenance and supplemental water.
- (l) **Signs.** Off-site freestanding signs greater than 18 square feet are prohibited in the OS Overlay. On-site signs within this overlay shall be designed to reflect and preserve the unique scenic values of the area. They shall be limited to 100 square feet in area. This requirement only applies to “new on-premises displays” approved and installed after the adoption of this subsection. No existing displays will be considered illegal or abandoned based upon this subsection. Additionally, the provisions of Chapter 83.13 [Sign Regulations] and the environmental review required for all discretionary projects will ensure that the scenic quality of properties located within the overlay will be addressed.
- (m) **Wireless Telecommunication Facilities.** Wireless telecommunication facilities shall be allowed within a scenic area pursuant to Chapter 84.27 [Wireless Telecommunication Facilities] in this Code but shall use the measures of Section 84.27.050 [Minimizing Impacts] to minimize their visibility to the greatest extent possible.

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009)

82.19.050 Development Standards for Trails

The following standards shall be used to evaluate proposed trails:

Item	Bicycle+ Pedestrian⁽¹⁾	Bicycle-only⁽¹⁾	Hiking-only	Equestrian-only⁽⁴⁾
Minimum width (one way)	10 ft.	5 ft.	5 ft.	8 ft.
Minimum width (two way)	12 ft.	8-10 ft.	8-10 ft.	10 ft.
Surface	Hardened, e.g. asphalt ⁽²⁾	Hardened, e.g. asphalt	Hardened	Hard-packed, No paving
Shoulder	2 ft. minimum	2 ft. minimum	2 ft. minimum	2 ft. minimum
Vertical Clearance	12 ft.	10 ft.	10 ft.	12 ft.
Cross Slope	2% maximum	2% maximum	2% maximum	2% maximum
Maximum Grade	5%	5%	5%	Maximum limit is erosion control

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Item	Bicycle+ Pedestrian⁽¹⁾	Bicycle-only⁽¹⁾	Hiking-only	Equestrian-only⁽⁴⁾
Minimum width (one way)	6-8 ft.	2 ft.	2 ft.	6 ft.
Minimum width (two way)	8-10 ft.	2 ft.	4 ft.	8 ft.
Surface	Firm all weather and unobstructed	Minimize erosion	Minimize erosion	Minimize erosion
Shoulder	2 ft. minimum	2 ft. minimum	2 ft. minimum	2 ft. minimum
Vertical Clearance	10 ft.	8 ft.	8 ft.	12 ft.
Cross Slope	3% maximum	3% maximum	3% maximum	3% maximum
Maximum Grade	5%; rest and turning areas every 200 ft. minimum	Maximum limit is erosion control	Maximum limit is erosion control	Maximum limit is erosion control

- (1) Standards meet Caltrans Class I Bikeway standards.
- (2) Where equestrian uses occur, an appropriate trail material (e.g., decomposed granite) shall be provided on the equestrian portion of the trail only; the remainder of the trail shall use materials appropriate to its intended use.
- (3) Multiple use trails with both bicyclists and equestrians shall be no narrower than six feet. A combined use trail with hiking and bicycling only should be no narrower than four feet.
- (4) A maximum of 20% vertical grade or as needed for erosion control, whichever is less. This can be exceeded for short distances (no more than 200').

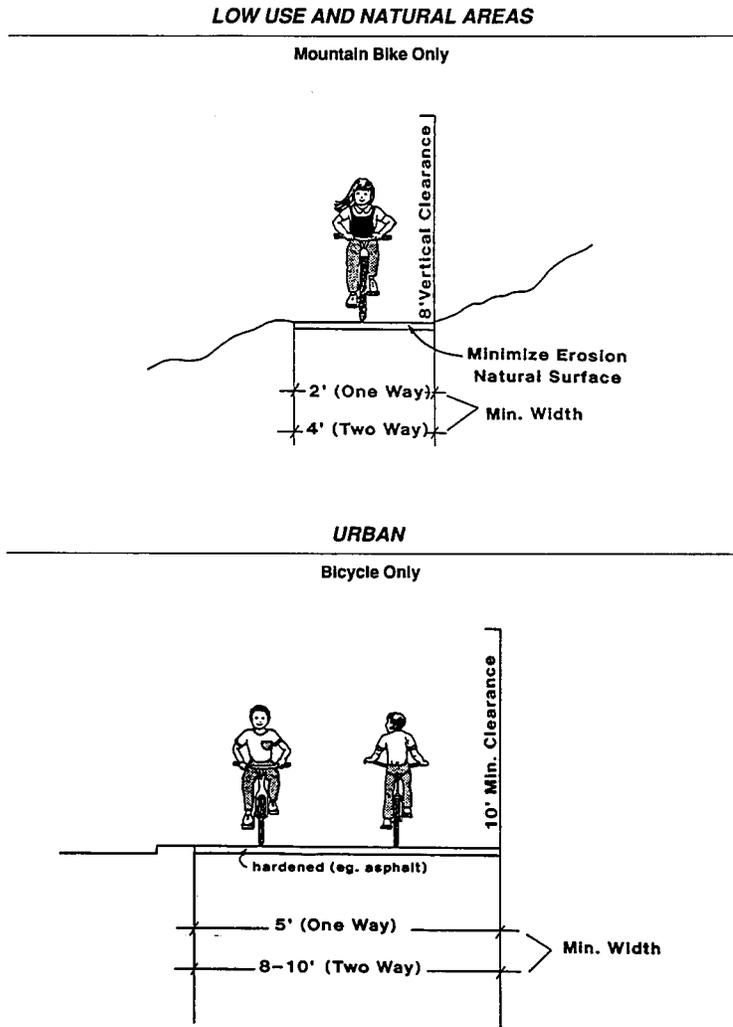
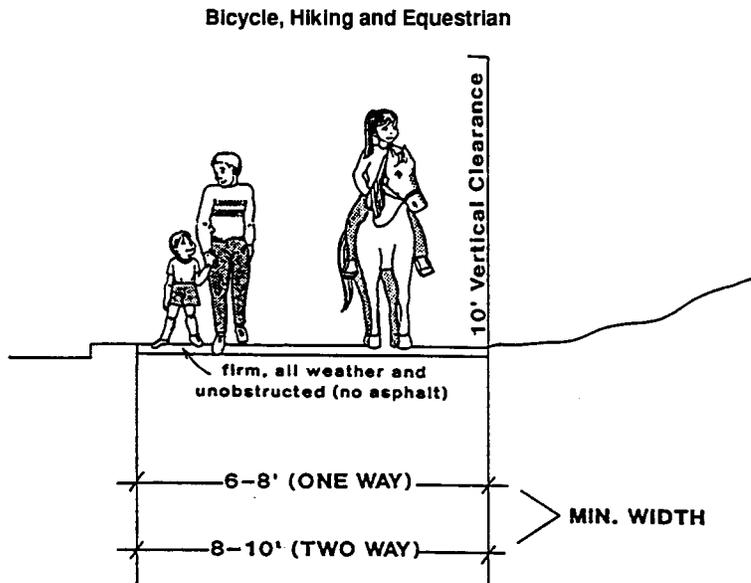
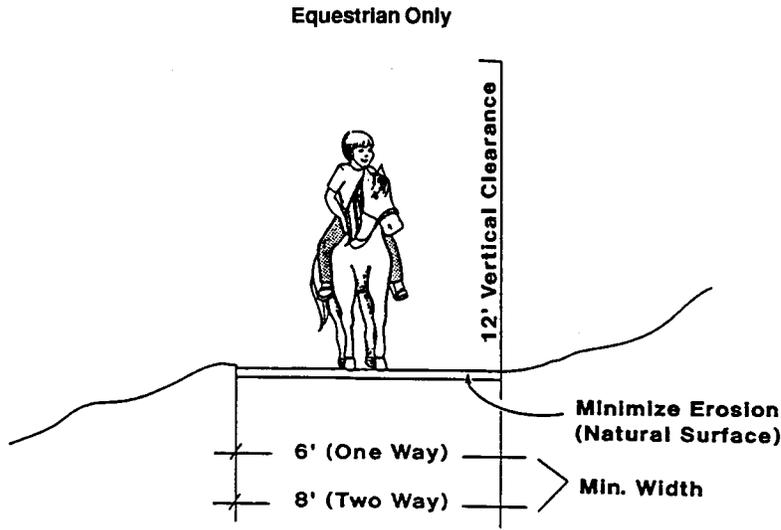


Figure 82-1
Trails - Low Use and Natural Areas/Urban #1

LOW USE AND NATURAL AREAS

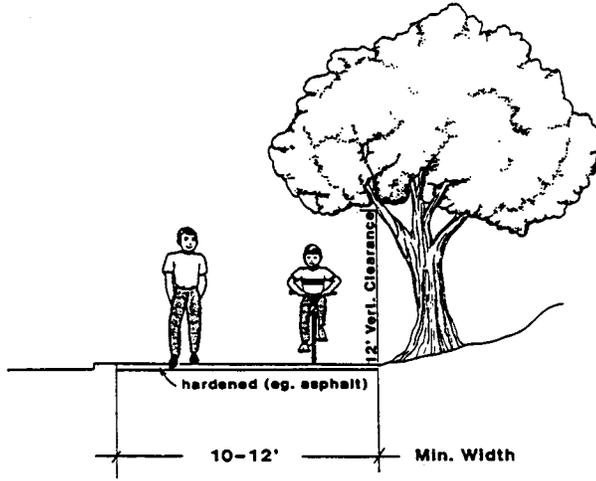


"Low Use" assumes that all uses will not occur simultaneously
(pullouts may be necessary in natural areas of high use)

Figure 82-2
Trails - Low Use and Natural Areas

URBAN

Pedestrian and Bicycle



Bicycle, Hiking and Equestrian Combined in One Easement

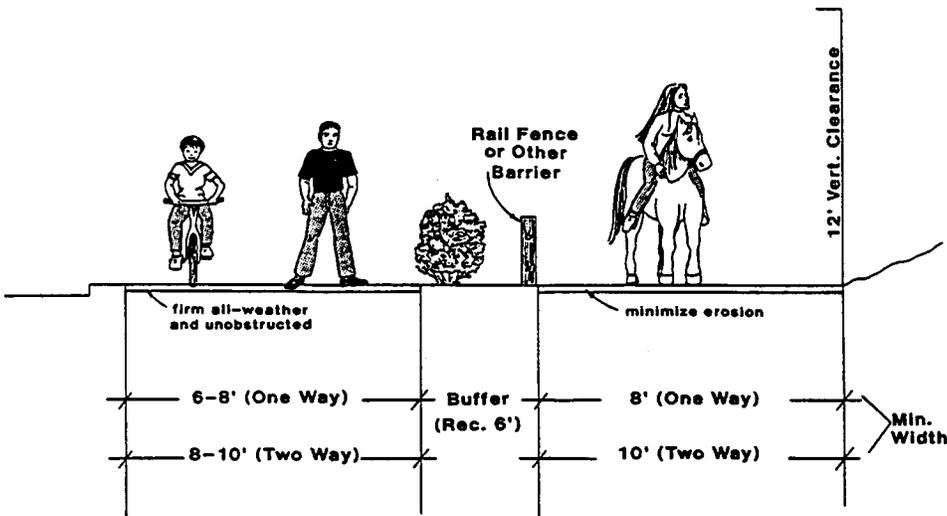
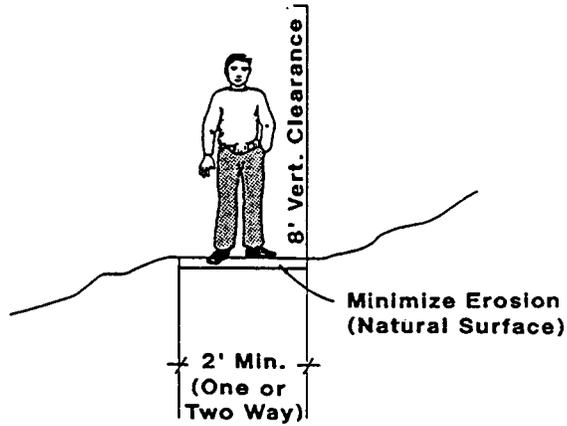


Figure 82-3
Trails - Urban

LOW USE AND NATURAL AREAS

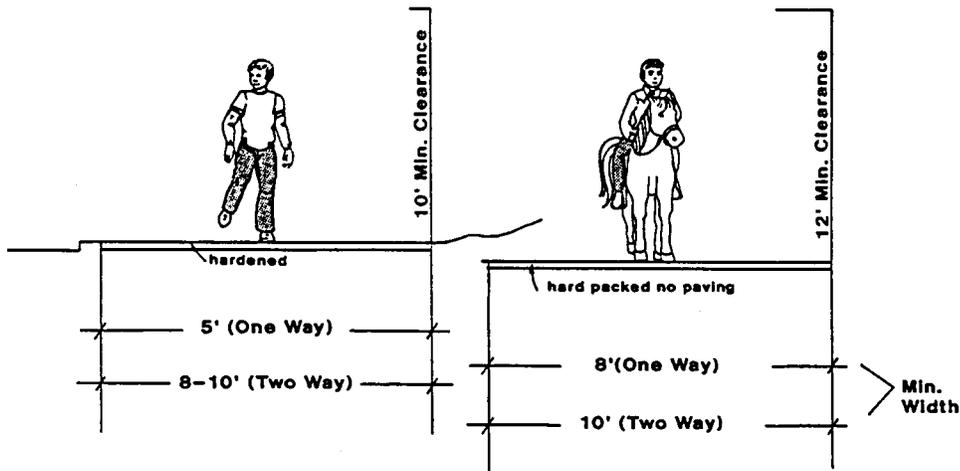
Hiking Only



URBAN

Hiking Only

Equestrian Only



**Figure 82-4
Trails - Low Use and Natural Areas/Urban #2**

Adopted Ordinance 4011 (2007); Amended Ordinance 4067 (2009); Amended Ordinance 4245 (2014)

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