



COMMITTEE FOR  
GREEN FOOTHILLS

March 4, 2002

Santa Clara County Planning Commission  
70 West Hedding Street  
San Jose, CA 95110

Re: Article 12. Regulations for Open Space and Field Research (OS/FR) District

Dear Chairman Voss and Members of the Planning Commission,

Thank you for the opportunity to review the Draft Regulations for the Open Space/Field Research (OS/FR) District. The draft text proposed by planning staff does not provide for the long-term protection of the Stanford foothills as intended by the Board of Supervisors, and has significant additional problems. **Committee for Green Foothills urges the Planning Commission to provide specific policy direction to change the proposed OS/FR District zoning language so that it provides the level of specificity required of a zoning district and to provide for adequate foothill protection.**

The Board's intent for this foothill zoning district was specified in the Community Plan:

*"Enact and apply appropriate zoning consistent with the allowable uses and development policies of this designation. Incorporate the clustering model of the County's Hillside General Plan designation and Hillside zoning district in the development standards for this new zoning district."* (SCP-LU (i) 4)

The clustering model in the County's Hillside zoning district establishes a clear mechanism for permanent dedication of hillside lands. Since the Supervisors specifically directed that the clustering model of the County's Hillside zoning district be used for the Stanford foothills, it is clear that they intended for the OS/FR District to also establish a mechanism for dedication. The proposed OS/FR District zoning does not establish a mechanism that will ensure dedication of land in exchange for development. Specifically, as lands are developed compensating lands should be committed to open space.

The OS/FR District zoning language used to define allowable uses does provide for some level of protection in the short term; however, it does not ensure dedication of open space or even that a significant amount of the foothills will be protected. The regulations should guarantee long-term protection of the foothills by requiring dedication to occur in exchange for development. In addition, the proposed OS/FR District zoning language needs significant revision to address problems with development density standards, discretion of the ASA Committee, and the cluster development program. The Committee for Green Foothills urges you to revise the regulations to address these serious flaws.

**The proposed OS/FR District zoning does not establish development density limitations.**

Since the Community Plan states that the Hillside cluster model be used for the OS/FR District zoning, it is important to look at the standards established by the County policy. The County's Hillside zoning establishes floor-area limits and density limitations. In this policy, the minimum parcel size is 160 acres, and the slope density formula is used to allow smaller parcels only if there is to be clustering on 10% of the 160-acre parcel and dedication of the remaining 90%. The slope density formula is used to calculate the average land area per dwelling unit when clustering is to occur. The County's Hillside zoning also provides clear standards for floor-area limitations.

Conversely, the proposed OS/FR District zoning uses a slope density formula to determine parcel size (rather than establishing a large minimum parcel size), and provides no floor-area limitations per parcel. In section 12-2 (8) of the proposed OS/FR District zoning, the draft policy defines square foot and height limitations on structures, but it then states that these limits can be exceeded at the discretion of the Architecture and Site Approval (ASA) Committee. It

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does not set any standards or specific findings for the ASA Committee to follow if the standards are exceeded. This vague policy essentially establishes no standards for building height, floor-area limitations, and intensity of use. The proposed OS/FR District zoning, like other County zoning, should provide this level of specificity.

**The proposed OS/FR District zoning provides the ASA Committee with an unprecedented and inappropriate level of discretion.**

The ASA Committee functions on a ministerial level and is made up of four County staff members, chaired on a rotational basis by members of the Planning Commission. This body was intended to provide design review and to interpret zoning standards. It is inappropriate to allow this committee the level of discretion provided by the proposed OS/FR District zoning, which includes determining building height and setbacks, floor-area limitation, or intensity of use, and new road standards. Additionally, the ASA Committee does not provide the level of public process appropriate for these types of important decisions.

Further, the existing County Hillside zoning provides specific findings, pursuant to a conditional use permit, that must be met for different types of allowable development. For example, for a use such as Park and Ride lots, design review is required and the ASA Committee must make specific findings, including: (a) Excessive grading is not necessary to establish the use; (b) The site is less than fifteen percent slope; (c) There is no need to remove riparian vegetation. It is standards such as these that typically guide the ASA Committee and need to be established as part of the OS/FR District zoning. Without this type of specific and well-defined direction provided by the zoning code, the ASA Committee would be extending beyond its ministerial functions.

The language under Nonconforming Uses (Sec. 12-5) allows inappropriate redevelopment and too much discretion to the ASA Committee. This section allows the ASA Committee the discretion to enlarge a building footprint and to change the location of a building, which effectively eliminates any protections intended in the Nonconforming Uses section. The language of this section clearly states that if a disaster creates the need to remodel or reconstruct an existing nonconforming use, the new building cannot exceed any physical dimension (length, width, or height) of the previously existing structure, and the resulting landscaping may not exceed the area previously landscaped. However, the last sentence of this section renders meaningless these clear protections with language that allows the ASA Committee the discretion to enlarge or move the existing building footprint. "Unless otherwise specified through ASA, reconstruction or replacement of such facilities will replicate or reduce the existing building footprint in the same location." There should be no provision to enlarge an existing nonconforming building. If the location must be changed in such an instance, Planning Commission approval should be required.

**There are significant problems with the proposed clustering provision, section 12-9.**

The proposed OS/FR District zoning allows the minimum parcel size to be waived if clustering is to occur. The purpose of clustering is to allow a little more development on a small portion of a large developable parcel while requiring permanent dedication of 90% of the parcel. Allowing the minimum parcel size requirement to be waived could result in the dedication of only insignificantly small areas, and erodes the intent of clustering.

In addition, the regulations needs to specify floor-area limitations and intensity standards to define appropriate levels of clustering.

Lastly, the proposed OS/FR District zoning clustering provision does not require the dedicated land to be contiguous with the developed area, and even goes so far as to allow this dedicated land to be placed in Special Conservation Area. Special Conservation Areas prohibit development by policy and therefore are already protected; allowing these areas to be used or counted as open space in exchange for development in the OS/FR District clearly violates the intent of clustering. The areas intended to be protected under this provision are the lands in the Open Space Field Research District that will be affected by development.

**There is no mechanism that guarantees long-term foothill protection.**

Because there is no mechanism provided to dedicate open space without a subdivision, the proposed OS/FR District zoning does not provide adequate means to protect the foothills in the long run. As modeled in the County policy, the proposed OS/FR District zoning language provides for open space dedication only when triggered by subdivision.

However, here the County regulations clearly do not serve as an appropriate model for Stanford lands, since Stanford subdivides only when they lease property. The OS/FR District language must address long-term protection from development of the foothills that will quite likely occur without subdivision.

Under the 2000 General Use Permit, Stanford is allowed to develop up to three 5,000-square foot facilities in the foothills. This development allocation could be significantly increased under the next GUP. Without adequate protections established now through zoning, the foothills will not be protected. The proposed OS/FR District zoning does not provide these critical protections.

The proposed OS/FR District zoning should establish a mechanism that guarantees permanent dedication of foothills land at the time any development occurs in the foothills. For example, any development approval should trigger a commensurate dedication of open space; this should cover any kind of development, including parking lots.

**Committee for Green Foothills strongly urges the Planning Commission to provide policy direction to staff to correct these significant problems in the draft OS/FR District zoning regulations.** In summary:

- \* The proposed OS/FR District zoning should contain specific, well-defined direction typically provided by a County zoning code, such as development density, floor-area limitations, intensity standards and specific findings.
- \* The ASA Committee should not be allowed to extend beyond its ministerial functions.
- \* The proposed OS/FR District zoning must incorporate the County's Hillside zoning clustering model directed by the Board of Supervisors in the Community Plan and thus provide a meaningful mechanism for dedication of open space in the foothills.
- \* Any development approval should trigger a commensurate dedication of open space.

The Planning Commission should direct staff to revise the proposed OS/FR District zoning to address these flaws, and to redraft the regulations so that they meet the goals established in the Community Plan.

With care and attention to detail, we are confident that we can establish well-defined standards for this important foothill area. The Committee for Green Foothills looks forward to participating in this process.

Thank you for your consideration,

<signed>

Denice Dade  
Legislative Advocate

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