



Agenda Date: 6/27/2006  
Agenda Placement: 8B  
Set Time: 9:15 AM PUBLIC HEARING  
Estimated Report Time: 1 Hour

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** Hillary Gitelman, Director, 253-4805  
**SUBJECT:** Public Hearing - Viewshed Ordinance

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### **RECOMMENDATION**

First and final reading and adoption of an ordinance amending certain sections of Chapter 18.106 (Viewshed Protection Program) of the Napa County Code to provide clarification of the requirements that projects must meet in order to comply with the ordinance and the manner in which certain projects are reviewed.

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt pursuant to Section 15305 of the California Environmental Quality Act. (Class 5 - Minor Alterations in Land Use Limitations) [See Guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

### **EXECUTIVE SUMMARY**

At a joint meeting of the Planning Commission and the Board of Supervisors in October 2005, Planning staff was asked to investigate ways to make the County's Viewshed Ordinance more understandable without either weakening or strengthening its requirements. The resulting ordinance is presented for the Board's consideration and is the outcome of a planning process involving four public hearings by the Planning Commission and input from interested parties on all sides of this issue. On June 7, 2006, the Planning Commission recommended that the Board adopt this ordinance.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt pursuant to Section 15305 of the California

Environmental Quality Act. (Class 5 - Minor Alterations in Land Use Limitations). It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. The project will clarify but not substantively alter current code requirements, and will therefore neither stimulate nor impede physical changes to the environment permitted under current regulations. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works. [See Class 5 ("Minor Alterations in Land Use Limitations") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15305; see also Napa County's Local Procedures for Implementing the California Environmental Quality Act, Appendix B.]

### **BACKGROUND AND DISCUSSION**

At the joint meeting of the Planning Commission and the Board of Supervisors in October 2005, Planning staff was asked to consider ways to make the County's Viewshed Ordinance (Chapter 18.106 of the County Code) more understandable. Specifically, the Board directed staff to work on changes to the ordinance that would make it neither stronger nor weaker, but would make it more clear. The Board also requested that staff solicit feedback from applicants who have received permits under the Viewshed Ordinance, and assess the amount of development subject to the ordinance which may occur in the Stags Leap vicinity.

On January 4, 2006 the Planning Commission adopted a work program consistent with this direction and determined that it would hold a series of public hearings. The work program included three guiding principles consistent with the Board's direction, namely:

- | The purpose of the hearings is to clarify the ordinance; not to make it stronger or weaker.
- | Although aesthetics are necessarily subjective, the ordinance's standards should be stated as clearly and unambiguously as possible.
- | The design manual is expressly intended to assist applicants in understanding provisions of the ordinance. However, the terms of the ordinance take precedence over provisions of the design manual. Thus, if there are discrepancies between the two, the design manual should be brought into conformance with the ordinance.

The Planning Commission held hearings on sections of the ordinance on February 1, March 1, and April 5. At the April 5th hearing, the Commission reviewed possible text changes to the ordinance and instructed staff to prepare a revised version (i.e. a draft ordinance) for consideration at a later date. A properly noticed hearing was held on June 7, 2006, after which the Planning Commission recommended adoption of the proposed ordinance by the Board of Supervisors. (See ordinance attached.)

Clarifications of the ordinance that received particular attention by the Commission and by commenters included (a) the relationship between the viewshed ordinance requirements and State requirements regarding "defensible space;" and (b) the definition of the term "predominant portion" which is crucial to the review of projects within 25 feet of a minor or major ridgeline.

**CEQA STATUS:** The draft ordinance would clarify existing County requirements, and is therefore Categorically Exempt from review pursuant to CEQA Guidelines Section 15305 (Class 5: Minor Alterations to Land Use Limitations).

GENERAL PLAN CONFORMITY: Napa County General Plan policies in the Scenic Highways Element and the Land Use Element address issues related to views and aesthetics, for example: "new development projects located within view of a scenic corridor should be subject to site and design review to ensure such development does not destroy scenic quality" (Scenic Highways Element policy 3, page 7-5). The draft ordinance would clarify existing County requirements regarding viewshed preservation, and thus would conform with these policies.

RECOMMENDATION: The Planning Commission has recommended adoption of this ordinance.

Should revisions to the ordinance be adopted, staff recommends that the Department of Conservation, Development and Planning work program be adjusted to include preparation of revisions to the Design Manual and Viewshed application materials. Revisions to the Design Manual and application materials would bring both into conformance with the ordinance, and describe ways that applicants can both meet Viewshed requirements and Fire Code requirements related to site vegetation.

### **SUPPORTING DOCUMENTS**

- A . Tracked Ordinance
- B . Final Ordinance

CEO Recommendation: Approve

Reviewed By: Andrew Carey