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Agenda Date: 8/19/2009

Agenda Placement: 9C

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning

**REPORT BY:** Chris Cahill, Planner - 707.253.4847

**SUBJECT:** 2009 Omnibus Parks and Open Space Ordinance. Zoning Code Text Amendment Application No. P09-00163-ZOA and Rezoning Application No. P09-00162-RZG. (County Sponsored)

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### **RECOMMENDATION**

#### **2009 OMNIBUS PARKS AND OPEN SPACE ORDINANCE - ZONING CODE TEXT AMENDMENT P09-00163-ZOA AND REZONING P09-00162-RZG**

**CEQA Status:** Negative Declaration Prepared. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5

**Request:** County-sponsored ordinance to: 1.) add a new Chapter 18.90 to the Zoning Code, establishing the :SWP (Skyline Wilderness Park) Combination District; 2.) rezone approximately 3 acres of Assessor's Parcel No. 046-450-041 from the PD (Planned Development) to the AW (Agricultural Watershed) Zoning District; 3.) rezone all of Assessor's Parcel Nos. 046-450-042, 046-390-001, 045-350-002, 045-360-001, and 046-380-001 and portions of Assessor's Parcel No. 046-450-041 to add the :SWP Combination District designation; 4.) amend portions of Chapters 18.08 and 18.104 of the Zoning Code regarding recreational uses and facilities; and 5.) amend Sections 18.20.020 and 18.20.030 of the Zoning Code to allow "quasi-private recreational uses and facilities" and to revise existing language regarding campgrounds within the AW (Agricultural Watershed) zoning district. The draft Negative Declaration prepared for the Ordinance also addresses adoption of a draft Skyline Wilderness Park Master Plan, however, the Plan is a Board of Supervisors item and will not be coming before the Planning Commission.

**Ordinance Title:** *AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING AND ADDING VARIOUS SECTIONS TO TITLE 18 (ZONING) OF THE NAPA COUNTY CODE RELATING TO RECREATION DEFINITIONS, ALLOWED USES IN THE AW ZONING DISTRICT, AND RECREATION FINDINGS AND STANDARDS; ADDING CHAPTER 18.90 TO CREATE THE SKYLINE WILDERNESS PARK COMBINATION DISTRICT; REZONING PORTIONS OF A CERTAIN PARCEL WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF NAPA FROM THE PLANNED DEVELOPMENT DISTRICT (PD) TO THE AGRICULTURAL WATERSHED DISTRICT (AW); AND ADDING CERTAIN PARCELS WITHIN THE UNINCORPORATED AREA OF THE COUNTY OF NAPA WITH AN AGRICULTURAL WATERSHED DISTRICT*

*(AW) ZONING TO THE SKYLINE WILDERNESS PARK COMBINATION DISTRICT (:SWP).*

**Staff Recommendation:** That the Planning Commission conduct a public hearing and forward a recommendation of approval to the Board of Supervisors.

**Staff Contact:** John Woodbury, 259-5933, jwoodbur@co.napa.ca.us, or Chris Cahill, 253-4847, ccahill@co.napa.ca.us

**EXECUTIVE SUMMARY****Proposed Action:**

1. That the Planning Commission recommends Board of Supervisors adoption of the proposed Negative Declaration, based on findings 1-5 of Exhibit A.
2. That the Planning Commission finds the proposed Ordinance consistent with the Napa County General Plan and zoning regulations based on finding 6 of Exhibit A.
3. That the Planning Commission recommends Board of Supervisors adoption of the proposed Ordinance.

**Discussion:**

Broadly, the proposed 2009 Omnibus Parks and Open Space Ordinance includes a number of changes to the County's Zoning Code and Zoning Map which are designed to provide permanent zoning protections for Skyline Wilderness Park and to implement the Recreation and Open Space Element of the General Plan. More specifically, and as outlined in greater detail under **Discussion Points** below, the proposed ordinance would establish a Skyline Wilderness Park Combining (:SWP) zoning district and rezone all of Skyline Wilderness Park and neighboring Camp Coombs to AW:SWP. The :SWP combining district would allow only agricultural and public park uses and would restrict residential development should the State of California ever "surplus" the underlying property and sell it to a private party. The ordinance also proposes a new "Quasi-Private Recreational" use, which would allow non-commercial, by-invitation only, rural recreational activities on properties that are zoned AW and permanently protected as open space. The draft ordinance additionally proposes changes to the definition of "recreation vehicle," changes to the definition of and rules applicable to "campgrounds", and minor technical changes to the outdoor recreation standards of Zoning Code Chapter 18.104.

The proposed :SWP zoning also integrates a requirement that Skyline Wilderness Park operate under a duly adopted Park Master Plan. Consistent with the requirements of the ordinance, a Master Plan has been drafted and will proceed to the Board of Supervisors for their adoption in tandem with final action on the Omnibus ordinance. The draft Master Plan is attached to this report for the Commission's background review, but the Master Plan itself is not now (and will not be in the future) before the Planning Commission for action.

The 2009 Omnibus Parks and Open Space Ordinance ordinance is before the Planning Commission for a public hearing and recommendation to the Board of Supervisors for their final action. Staff requests that the Commission consider public input, review the merits of the draft ordinance, and vote to recommend either Board of Supervisors approval, Board of Supervisors approval with modifications, or Board of Supervisors denial of the draft ordinance. We recommend approval as submitted.

**FISCAL IMPACT**

Is there a Fiscal Impact? No

### **ENVIRONMENTAL IMPACT**

Negative Declaration Prepared. According to the proposed Negative Declaration, the project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste sites enumerated under Government code section 65962.5

### **BACKGROUND AND DISCUSSION**

#### **Skyline Wilderness Park**

**Owner:** State of California

**Lessee:** Napa County

**Sublessee and Operator:** Skyline Park Citizens' Association

**Current Zoning:** PD (Planned Development) and AW (Agricultural Watershed)

**Proposed Zoning:** AW:SWP (Agricultural Watershed:Skyline Wilderness Park Combining)

**General Plan Designation:** AWOS (Agriculture, Watershed, and Open Space)

**Size:** 850 acres, 944 acres including Camp Coombs

**Existing Land Use:** Skyline Wilderness Park encompasses approximately 850 acres of parkland located just east of the City of Napa, adjacent to and generally upslope from Napa State Hospital. The northern 50 acres of Skyline Park is generally flat and contains nearly all of the Park's physical improvements. The southerly remainder is characterized by steep and heavily wooded natural areas. Camp Coombs, an island of State Hospital-managed land within Skyline Park is also proposed to be rezoned.

#### **Other Affected Properties**

**Owner:** Various property owners Countywide

**Current Zoning:** AW (Agricultural Watershed)

#### **Discussion Points:**

##### **Background- Skyline Wilderness Park**

In the late 1970's the State of California began making preparations to dispose of approximately 850 acres of land east of Napa State Hospital as surplus property. The land had been informally used for hiking and other types of outdoor recreation for years and contained expansive, and largely untouched, grasslands, forests, and other natural areas. Initially, Napa County showed very little interest in acquiring the property as the County did not have a Parks Department or any other obvious method with which to preserve and administer the land. However, State Senator Dunlap and a neighbor of the Park, John Tuteur, recognized an opportunity to preserve the land and founded a group of citizen advocates which came to be known as the Skyline Park Citizens' Association (SPCA).

Under the plan they developed, the SPCA, functioning as an independent, non-profit organization, would manage and maintain the new park at no cost to the County.

In 1979, the County signed a concessionaire agreement with the SPCA, delegating responsibility to them to operate a public park on the land. On January 9, 1980, the State officially leased the land to the County of Napa for a term of 50 years, beginning February 20, 1980, for a fee of \$100.00 per year. The lease agreement included informally drawn boundaries on site maps, with a stipulation that a more formal legal description of the property would be made at a future date. The County and State also agreed on a General Development Plan, which was to guide the future development and operation of the Park.

Skyline Wilderness Park is one of the few, and potentially the only, park in California which is operated entirely by volunteers via a public-private partnership. However, the land on which the Park is located continues to be owned by the State and this unique and generally successful arrangement is imperiled by occasional attempts to "surplus" the property and sell it off to the highest bidder. While such an action might offer short term financial benefits to the State, it would also rob the people of Napa County of a peerless park resource and conflict with the many policies in the County's General Plan which speak to the preservation of open space generally (see Ag-LU 4, Ag-LU 20, ROS 4, and ROS 21) and Skyline Park in particular (see ROS 15).

#### Skyline Park Rezoning

General Plan Recreation and Open Space Element Policy ROS-15 states, in part, that, "the County, in coordination with and generally by working through the Napa County Regional Park and Open Space District, shall... assure the permanent protection of Skyline Wilderness Park as a public park and nature-based recreation area through all appropriate means including but not limited to acquisition, State legislation, *and local zoning requirements*" (emphasis added). The County and the Open Space District continue to pursue acquisition and State legislative remedies. However, given the State's recurring financial problems and the creative approaches to revenue enhancement which are presently in vogue, now is probably an opportune time for the County to implement additional zoning protections for the park. To that end, staff is proposing a new Skyline Wilderness Park (:SWP) combination zoning district and the rezoning of all 944 acres of Skyline Park and Camp Coombs from their current Planned Development (PD) and Agricultural Watershed (AW) designations to the new Agricultural Watershed:Skyline Wilderness Park (AW:SWP) combining district. The new AW:SWP district would allow **only** agriculture, new or expanded park and rural recreation uses that are consistent with a Board of Supervisors adopted Skyline Wilderness Park Master Plan, and new or expanded campgrounds on publicly owned land consistent with a Board of Supervisors adopted Skyline Wilderness Park Master Plan.

Because the State of California is exempt from local land use control, nothing in the proposed rezoning would impinge on the State's ability to use the property as they see fit (subject, of course, to the terms of the current State-County lease). However, should the State ever sell the property to a private party or some other entity which is subject to the County's Zoning Code, the AW:SWP district would ensure the property remained in park or agricultural use consistent with the County General Plan and zoning ordinance.

#### "Quasi-private Recreation Uses and Facilities"

Throughout the county's AW zoning district there are a number of open space properties, both those owned by public entities and those permanently protected by the Napa County Land Trust, Quail Ridge Wilderness Conservancy, Nature Conservancy, and other similar conservation organizations, on which it is not now technically consistent with the Zoning Code to hold invitation-only nature walks, hikes, or other similarly low-impact open space activities, or to construct or improve trails for those activities, without first obtaining a use permit. The perverse result of this situation is that many nature-based activities which are allowed by right on privately owned, unprotected, residentially developed properties in the AW zoning district (because they are seen to be accessory to the allowed residential use) now require a use permit should they occur on undeveloped lands which are permanently preserved by a conservation easement or by outright public ownership. Sections 4 and 6 of the draft ordinance attempt to remedy this situation by defining "quasi-private recreational uses and facilities" and allowing

them in the AW zoning district without a use permit and subject to the environmental performance standards of Zoning Code Section 18.104.350. The proposed ordinance defines, "quasi-private recreational uses and facilities" as "non-commercial rural recreation uses and facilities, where public use is by invitation only, and where the uses and facilities are located on property whose primarily natural condition and resources are permanently protected through a conservation easement or other property interest held either by an independent qualified non-profit land conservation organization or by a public agency."

#### Changes to Outdoor Recreation Standards (Zoning Code Chapter 18.104)

The proposed Omnibus Ordinance makes a number of technical changes to the Zoning Code's Outdoor Recreation Standards to bring them up to current parks and open space best management practices. Specific changes are outlined below:

#### *Zoning Code Section 18.104.340 Outdoor Recreation - General Standards*

\* Clarifies that permitted parks and recreation uses and campgrounds shall be as defined elsewhere in the Zoning Code. This avoids having potentially conflicting language scattered throughout various sections of the Code.

\* Deletes the requirement for parking areas to have a "dust-free, all-weather surface"; existing language which essentially means all parking areas must be paved. As an impervious surface, paving results in increased stormwater runoff, which reduces groundwater recharge and may cause creek bank erosion. From an environmental impact perspective, paving should be avoided unless necessary due to a high frequency of parking lot usage, erosion-prone soils or other site-specific reasons. Rather than having an absolute requirement, parking lot design, and surfacing would now be evaluated as part of the Use Permit process.

\* Clarifies that buffer zones are to be designed so that the recreational use does not adversely impact adjacent agricultural or residential uses. Literally interpreted, the current Code language means that a recreational use must provide buffers or fencing (such as setbacks or cattle fences) which would otherwise be the responsibility of adjacent users.

#### *Zoning Code Section 18.104.350 Outdoor Recreation - Environmental Performance Standards*

\* Clarifies that permitted parks and recreation uses and campgrounds shall be as defined elsewhere in the Zoning Code. This avoids having potentially conflicting language scattered in different parts of the Code.

\* Clarifies that quasi-private recreational uses are subject to the standards of this section.

\* Replaces a blanket prohibition against dust creation with a requirement that best practices be used for dust control and that "no dust may travel off-site." Literally interpreted, the existing absolute prohibition against dust creation would prohibit virtually all hiking, mountain biking, or horseback riding.

\* Replaces a blanket prohibition against lighting which is visible off-site with the standard "shielded and directed downward" language which has long been used in the County's standard conditions for use permit approval.

#### *Zoning Code Section 18.104.360 Outdoor Recreation - Campgrounds*

\* Clarifies that qualified caretakers, employees, etc are allowed to reside at campgrounds for periods longer than 14 days. This is standard practice at campgrounds, and is necessary to ensure adequate 24-hour per day facility supervision.

\* Deletes the existing 220 square foot maximum size restriction on RV's. Many RV's on the market today exceed these maximums. State law (see California Health and Safety Code Sections 18009.3 and 18010) sets the maximum size of an RV at 400 square feet, conflicting with and potentially preempting the existing 220 square foot County standard. As long as parking areas and travel lanes are designed to accommodate vehicles up to 400 square feet, the existing restriction appears to serve no substantial environmental protection purpose.

\* Deletes the prohibition on campsite utility hookups. While the cost of installing utility hookups may often be prohibitive, from an environmental perspective and for other users, electrical hookups are preferable to gas-powered generators, which create both noise and emissions. Similarly, it is better from a traffic and energy use

standpoint to provide RV's with waste water disposal hookups as opposed to forcing RV users to drive into town every few days to empty their wastewater storage tanks.

\* Deletes language which currently limits campgrounds to a single bathroom/shower facility. Staff is not aware of any environmental protection justification for such a stringent limitation on restroom facilities; indeed, the existing rule would seem to encourage campers to make use of natural facilities such as bushes and trees, rather than using a distant restroom.

#### *Zoning Code Section 18.104.390 Outdoor Recreation - Findings*

\* Makes a minor technical correction to what have become known as the Rural Recreation Findings to clarify wording referencing the Zoning Code Section 18.08.428 definition of "parks and rural recreation uses and facilities."

#### Other Proposed Changes

The 2009 Omnibus Parks and Open Space Ordinance also proposes changes to the definitions of "campground," "parks and rural recreation uses and facilities," and "recreation vehicle." Again, the changes are primarily technical amendments designed to update the code to current park and recreation standards. The definition of "parks and rural recreation uses and facilities" has been amended to allow motorized activities as part of a park and rural recreation use where such structures or activities are required by the Americans with Disabilities Act. The definition of "recreation vehicle" has been amended to delete language limiting an RV to, "a living area less than 220 square feet..." to reflect the fact that state law sets the maximum size of an RV at 400 square feet and a great many of the RV's on the market today exceed the 220 square foot limitation. Finally, three changes are proposed to the definition of "campground". The first change is to clarify that structures and uses which are customarily accessory to a campground may be allowed (subject, of course, to the Use Permit review process). These might include items such as storage sheds, nature museums, information/visitor centers, and retail sales of campground-related supplies like park maps, firewood, butane gas cannisters, mosquito repellent, poison oak lotion, etc. Second, the definition indicates that sleeping quarters may include tent cabins, yurts, and similar rustic enclosures on platforms in addition to tents. There are two reasons for this change: (1) many people want to enjoy a rustic outdoor experience but find it very difficult to sleep on the ground, and (2) rustic structures on platforms actually have a more limited environmental impact than traditional tents. With tents, campsites must often be graded to provide level sleeping areas; it is difficult to control where tents are set up, which can result in damage to native vegetation; regular tent use causes soil compaction; people often dig trenches around tents to re-direct rainwater; some soil types when wet will get churned up into mud, which can then wash away; and some soil types get pounded into dust when dry. The third change clarifies that permanent overnight accommodations may be permitted for caretakers, employees, and/or volunteers who are responsible for maintaining and operating the campground. As with all of the other changes, the specifics of what is actually allowed would be tailored to the specific site through the Use Permit review and approval process.

#### Skyline Wilderness Park Master Plan

As discussed briefly at Skyline Park Rezoning, above, the :SWP zoning designation would allow parks and rural recreation uses along with campgrounds, provided those uses are consistent with a Board of Supervisors-adopted Park Master Plan. In tandem with the drafting of the Omnibus Parks and Open Space Ordinance, County staff, an informal community advisory committee representing a range of interests, and the Skyline Park Citizens' Association have worked with Chandler & Chandler Landscape Architects of Napa to assemble a draft 2009 Skyline Wilderness Park Master Plan. The draft Plan is designed to, "provide the County of Napa and the Skyline Park Citizens' Association (with) a framework within which to make decisions and plans for the Park that will perpetuate the Park's mission -- regardless of changes in County or Park leadership or economic circumstances." The draft plan is attached for the Commission's reference and is analyzed in the project Negative Declaration, however, because it is the Board of Supervisors' responsibility to enact the Plan on behalf of the County, the Master Plan will not be coming before the Planning Commission for formal review or action.

Process

Chapter 18.136 of the Zoning Code outlines the procedure by which the Zoning Code and/or Zoning Map are to be amended. In short, the Planning Commission is required to hold a noticed public hearing on the proposed amendments. At the close of the hearing, the Commission votes to recommend either approval of, denial of, or modifications to the draft ordinance. Planning staff then reports the Planning Commission's recommendation up to the Clerk of the Board and the ordinance is agendized for a hearing before the Board of Supervisors for their final action.

General Plan and Zoning Consistency

The entirety of Skyline Wilderness Park is designated Agriculture, Watershed, and Open Space (or AWOS) in the General Plan Agricultural Preservation and Land Use element. According to Table Ag/LU-B, AW zoning is the "appropriate" zoning designation for AWOS designated lands where rezoning is under consideration. There are a number of policies in the General Plan's Recreation and Open Space Element which speak directly to Skyline Wilderness Park, its management, and its preservation. Policy ROS-15 states, in part, "the County... shall plan for... the permanent protection of Skyline Wilderness Park as a public park and nature-based recreation area through all appropriate means including but not limited to acquisition, state legislation, and local zoning requirements." Policy ROS-1 states that, "the County encourages the... design, management, and operation of recreational open space and facilities, in ways that protect natural resources, enhance natural habitats, conserve agricultural lands, maintain agricultural productivity, and respect private property."

The proposed :SWP zoning district, and its application to Skyline Park, function to ensure the permanent protection of parkland while maintaining agriculture as an allowed use on the property. The changes are therefore fully consistent with the Agricultural Preservation and Land Use Element. The rezoning of portions of the Skyline Park property from PD to AW is likewise consistent with the General Plan, as Table Ag/LU-B indicates that AW is the appropriate zoning where rezoning is proposed for AWOS designated lands.

The remaining text changes proposed in the draft ordinance are designed to clarify rural recreation and campground regulations, bring them up to date, and implement current best management practices and performance-based standards. The proposed changes further the goals of the Napa County Regional Park and Open Space District, consistent with General Plan Policy ROS-1, which calls on the County to, "coordinate with and support the Napa County Regional Park and Open Space District." They are also fully consistent with Measure P (which re-adopted and extended 1990's Measure J), as they do not affect the right of property owners to engage in allowed agricultural activities on their properties, and General Plan policies and land use designations protecting agriculture remain unaltered.

**SUPPORTING DOCUMENTS**

- A . Exhibit A - Findings
- B . Proposed 2009 Omnibus Parks & Open Space Ordinance (Redlined)
- C . Initial Study and Negative Declaration
- D . Presentation Graphics
- E . Draft Skyline Wilderness Park Master Plan (for reference only)

Napa County Planning Commission: Approve

Reviewed By: John McDowell