

# Uses and Development Intensities on Open Hillside Lands

(Excerpts from the Draft Envision 2040 General Plan)

## Land Use Designations

### ***Agriculture***

**Density:** minimum 20 acre parcels (1 to 2.5 stories)

Sites in the Agriculture designation are intended for a variety of agricultural uses, including grazing, dairying, raising of livestock, feedlots, orchards, row crops, nursery stock, flower growing, ancillary residential uses, ancillary commercial uses such as fruit stands, and the processing of agricultural products. Consistent with other General Plan goals and policies, agricultural practices are encouraged which follow ecologically sound practices and which support economic development, provide open space and link to the region's history. The Agriculture designation supports more intensive agricultural uses than are supported by the Open Hillside designation.

Building intensity in this designation would be greatly limited. The minimum parcel size in areas designated as Agriculture is 20 acres in size, and the designation is intended to support existing and future agricultural uses on properties. No uses or structures are allowed that would require urban services, such as sanitary sewers or other urban street improvements. Some ancillary, supportive uses can be allowed in accordance with the Rural Agriculture Goals & Policies in this General Plan.

### ***Open Hillside***

**Density:** up to 1 DU/20 AC\* (1 to 2.5 stories)

This designation is applied to areas which are located outside of the Urban Growth Boundary (UGB) with the intent of preserving over the long-term a greenbelt of open space along the City's eastern and southern edges. Within this designation the supported uses vary slightly between publicly and privately owned lands. Publicly owned lands within the Open Hillside designation include habitat conservation areas, open space preserves, and large-scale parklands. Privately owned lands within the Open Hillside designation may allow a limited amount of development, including single-family dwellings, private recreation, and low-intensity institutional or employment uses, with the majority of the site preserved as open space, very-low intensity agricultural uses such as grazing or tree farming, or privately owned open space / habitat preserves.

Because of the pervasive geologic conditions in the hills (landsliding, soil creep, earthquake faults) and the extraordinary public costs of hillside development, uses in Open Hillside areas are limited to those having very little physical impact on the land and requiring no urban facilities or services. There is also a need to preserve watershed and prime percolation soil areas. Protecting natural habitats and minimizing the visibility of development are important to enhance the open space character of Open Hillside areas.

Any development on an Open Hillside property should reduce impacts associated with on-site grading necessary for development and roadways. Development under this land use designation should be consistent with the Hillside development policies of the General Plan and should require discretionary development review permits.

## Open Hillside Residential Uses

Residential development of a very low-density rural character is a prevalent use of privately owned Open Hillside lands. Such development should be well integrated into the natural setting and/or combined with low-impact agricultural use of the property. The standard allowable density of residential development shall be that of one dwelling unit per 160 acres, with the maximum residential density on property with an Open Hillside designation determined by the Open Hillside Slope Density Formula. This formula defines minimum lot sizes between 20 and 160 acres (i.e., a density range of .05 to .0063 DU/AC) based on average slope of an existing legal parcel. The average slope of an existing legal parcel is calculated as follows:

$$S = 0.00229 \times IL/a$$

Where:

“S” is the average slope of the parcel in percent

“I” is the contour interval in feet;

“L” is the combined length of contour lines in feet; and,

“a” is the gross area of the parcel in acres.

This average slope of the parcel is then used to calculate the minimum land area per dwelling unit allowed on that parcel. If “S” is 10% or less, the minimum land area per dwelling unit is 20 acres. If “S” is 50% or greater, the minimum land area per dwelling unit is 160 acres. If “S” is between 10% and 50%, the minimum land area per dwelling unit is calculated as follows:

Where:

$$a = 1/(0.0609375 - (0.00109375 \times S))$$

“a” is the minimum land area per dwelling unit: and,

“S” is the average slope of the parcel in percent.

Lower densities, i.e., larger lot sizes, may be required in some locations in order to satisfy the geologic, public service cost, watershed, natural habitat and visual concerns cited above.

## Open Hillside Agricultural Uses

Open Hillside lands are suitable for low-impact agricultural uses such as animal grazing or crop production provided that such activities do not involve the significant development of structures or modifications to the natural landscape. As an example, the planting of vineyards that follow the natural terrain and require minimal irrigation are potentially an appropriate use while crop production or animal husbandry conducted primarily within a structure (e.g., greenhouses or livestock buildings) is not appropriate.

## **Open Hillside Institutional / Employment Uses**

The Open Hillside areas provide a limited opportunity for the development of institutional or employment uses of a form and character such that they could not be accommodated within the City's urbanized area and which by their nature require a remote, rural setting or support the recreational or productive use, study or appreciation of the natural environment.

Institutional and Employment development should promote the long-term preservation of privately owned Open Hillside properties as open space, by combining limited development on a small portion of a large property with permanent restriction of the use of the remainder of that property as established in the General Plan Land Use policies for Non-Urban Areas. For example, a single large-scale facility such as a conference center or private lodge, located on a site of XXX acres or more, could potentially be allowed in this designation, if the proposed development preserves more than XXX percent of the site as open space.

## **Land Use Policies – Non-Urban Area**

### ***Urban Growth Boundary***

The Greenline/Urban Growth Boundary (UGB) establishes the maximum extent of urban development. All urban and suburban development should occur within this boundary and the areas outside of this boundary are intended to remain permanently rural in character and to contribute to the establishment of a permanent green belt along the City's eastern and southern edges. To ensure the long-term stability and integrity of this strategy, significant modifications to the UGB and its supporting policies are strongly discouraged and should only occur as part of a Major General Plan Update.

The Greenline/Urban Growth Boundary (UGB) serves multiple purposes. The UGB is intended to preserve substantial areas of the surrounding hillsides, baylands, and other lands, as open spaces both to conserve the valuable natural resources contained on these lands and to protect views from the valley floor. In furtherance of the City's fiscal goals, the UGB is intended to direct urban development within infill locations where the City can most efficiently provide urban services. Consistent with the General Plan's growth strategy, the UGB will also help steer new development and public and private investment into the more environmentally sustainable infill growth areas of San Jose. The UGB will also protect public health and safety by preventing urban development in areas subject to natural hazards such as wild fires and land slides. The UGB Goals and Policies work in concert with many other goals and policies in this Plan, such as those in the Hillside & Rural Preservation and the Fiscal sections.

The Greenline/Urban Growth Boundary is indicated on the Land Use / Transportation Diagram and is typically conterminous with the Urban Service Area boundary and the 15% slope line except in the area of the Urban Reserves. The UGB is intended to exclude new development above the 15% slope line, defined as the point where the hillside topography exceeds a 15% incline based upon 1 foot slope contour data. In some instances the UGB has been established above the 15% slope line due to the presence of existing development implemented prior to the adoption of current General Plan policy. The 15% Slope Line is included for reference purposes on the Land Use / Transportation Diagram.

The following policies apply to all proposed use and development of lands outside of the Urban Growth Boundary. Such lands are designated as either Open Hillside or Agriculture on the Land Use / Transportation Diagram.

### **Goal LU-17 – Urban Growth Boundary (Open Hillside / Agriculture Lands)**

Respect the Greenline/Urban Growth Boundary to preserve the beauty and natural resources of the rural and hillside areas, to maintain the fiscal health of the City, to direct private and public investment within identified growth areas, and to preclude development in areas subject to natural hazards.

#### **Policy – Urban Growth Boundary**

- LU-17.1 Maintain the Greenline/Urban Growth Boundary to delineate the extent of existing and future urban activity and to reinforce fundamental policies concerning the appropriate location of urban development.
  
- LU-17.2 Prohibit new urban development outside of the Greenline/Urban Growth Boundary (UGB) allowing only low intensity non-urban uses. Appropriate land use designations for areas outside of the UGB include Agriculture; Open Hillside; and Urban Reserve. Other urban designations may not be applied to lands outside of the UGB.
  
- LU-17.3 Do not provide urban services to new development outside of the Greenline/Urban Growth Boundary.
  
- LU-17.4 Use the Greenline/Urban Growth Boundary and Urban Service Area boundary to protect public health and safety by preventing urban development in areas subject to natural hazards, in accordance with the Hillside & Rural Preservation Policies and the Safety & Hazards Management Policies.
  
- LU-17.5 Reserve areas outside the Greenline/Urban Growth Boundary (UGB) and Urban Service Area (USA) for rural, agricultural, open space, habitat, or other very low-intensity uses. To this end:
  - a) Limit all new development to projects that are non-urban in terms of:
    - 1) Waste water generation rates.
    - 2) Traffic generation rates.
    - 3) Extent of grading, vegetation removal, drainage modifications or other alteration of the natural environment.
    - 4) Noise or other nuisance potential.
    - 5) Growth inducing potential.
  
  - b) Limit new non-residential development to projects that:
    - 1) Avoid or minimize any potentially significant adverse environmental impacts.
    - 2) Provide adequate access to safely accommodate potential traffic without significantly impacting local transportation routes.

- 3) Demonstrate no significantly increased risks associated with natural hazards.
  - 4) Do not create adverse visual impacts as viewed from the Valley floor or from adjacent public recreational areas; and
  - 5) Cause no significant increase in the demand for public services or infrastructure.
  - 6) Proposed densities consistent with the scale of the allowed recreational or commercial use, if applicable.
  - 7) Design and appearance blend harmoniously with the natural setting.
  - 8) Locate, and if possible, cluster new development within the minimum area necessary to accommodate it, in order to avoid or reduce the need for improvements and minimize any potential environmental impacts.
- c) Prohibit subdivisions outside of the UGB and USA except at rural or agricultural densities (minimum one hundred sixty acre parcels with exceptions potentially allowing smaller parcels, but in no case less than twenty acre parcels), and consistent with other policies in this plan.
- d) Prohibit residential development outside of the UGB and USA that exceeds one dwelling unit per 20 acres, except when development of a single dwelling unit on an existing legal lot of record would result in development at a higher density.
- e) Allow Low-intensity institutional, private recreational, employment or other non-residential and non-agricultural development outside of the UGB and USA provided that such development meets the following:
- 1) The use is on a large site commensurate with the level of development and in no cases less than XXX acres in area.
  - 2) Building coverage is limited to XXX% of the site area, so as to maintain a level of development intensity (Floor Area Ratio) consistent with that of residential development within Open Hillside areas.
  - 3) A significant portion of the site, at least XXX%, will be permanently preserved as open space to provide for protection of the watershed, natural habitat areas and the open aesthetic character of the hillsides.
  - 4) The development involves minimal grading, minimal visual impact, no urban service extensions and ensures substantial wildlife corridor protection.
- f) Maintain the City and County commitments to restrict land uses outside of the UGB and USA to uses that maintain the rural, agricultural, habitat, or other low-intensity character of these areas.

LU-17.6 For all non-residential uses allowed in Open Hillside areas other than agricultural and single-family residential land uses, open space preservation may be required in order to:

- a) Protect the public health, safety and general welfare;
- b) Prevent or mitigate potentially significant adverse environmental impacts; and/or

- c) To create perimeter areas that adequately buffer neighboring properties from adverse off-site impacts of the proposed land use.

- LU-17.7 Prohibit significant modifications of the Greenline/Urban Growth Boundary (UGB), as defined by Title 18 of the municipal code, except through a Major General Plan Update process. Any modifications to the UGB must be consistent with the City's fiscal goals, applicable LAFCO policies and all applicable provisions of both the City and County General Plans and the City's municipal code (i.e. Title 18).
- LU-17.8 Consider minor adjustments and contractions to the Greenline/Urban Growth Boundary (UGB) through a General Plan Amendment process, but do not expand the UGB to include new areas located above the 15% Slope Line.
- LU-17.9 Maintain consistency between City and County land use and development policies for the lands outside the Greenline/Urban Growth Boundary and continue the referral process for development proposals or policy proposals affecting these lands.

### **Actions**

- LU-17.10 Establish a program to create new zoning districts for hillside areas and rezone those lands outside of the Greenline/Urban Growth Boundary (UGB) under City jurisdiction to conform with the General Plan designations of these areas and to be consistent with the purposes of the UGB.

## ***Rural Agriculture***

Agriculture is a significant part of San José's history and will continue to be a part of San José's future. The Envision San José 2040 General Plan has two sets of goals and policies related to agriculture – rural and urban. This section addresses rural agriculture.

San José's rural agriculture provides a wealth of health, social, environmental, and economic benefits for the city's community. Agricultural lands add to a distinct image of San José's community, and the agricultural preservation policies work in concert with the Envision Plan's Greenline/Urban Growth Boundary and open space preservation strategies. Either directly or indirectly, the Rural Agriculture Goals, Policies, and Implementation Actions promote every Element of the Plan Vision. The policies are intended to preserve agricultural land; improve the community's access to healthful foods; promote local and ecologically sound food production; support the ability of farmers in the region to sell their produce locally; and provide environmental, social, and economic benefits to the community. The Rural Agriculture Policies primarily address agricultural properties that are not anticipated to urbanize within the lifetime of the Envision Plan, including lands designated as Agricultural or Urban Reserve on the Land Use / Transportation Diagram and lands designated as Open Hillside on which the primary use is agriculture.

The agricultural potential of the Santa Clara Valley was recognized early and orchard products dominated agricultural production, which was by far the predominant use in San José and Santa Clara County by the end of the 19<sup>th</sup> century. Fruit production in San José peaked in the 1920s, and the canning and packing industry quickly grew. San José was known as the "Valley of the Heart's Delight."

Today, the boundaries of the City have spread and residential land uses dominate San José's landscape. Little agricultural production remains in San José; however, the community and the City have a renewed recognition of the importance of local agriculture for food security, access to healthful foods, groundwater recharge, and environmental benefits of local food production and consumption.

## **Goal LU-18 – Rural Agriculture**

Provide and protect sufficient agricultural land to facilitate local food production, to provide broad community access to healthful foods, to add to a distinct community image, and to promote environmental and economic benefits of rural agricultural lands.

### **Policies – Rural Agriculture**

- LU-18.1 Protect and preserve the remaining farmlands within San José's sphere of influence that are not planned for urbanization in the timeframe of this general plan through the following means:
- a. Strongly discourage conversion of agricultural lands outside the Urban Growth Boundary to non-agricultural uses.
  - b. Limit residential uses in agricultural areas to those which are incidental to agriculture.
  - c. Strongly discourage subdivision of agricultural lands, unless it can be established that the subdivision would not reduce the overall agricultural productivity of the land and that viable agricultural operations would be sustained.
  - d. Encourage contractual protection for agricultural lands, such as Williamson Act contracts, agricultural conservation easements, transfers of development rights, or other property tax relief measures as incentives for preservation of these lands.
  - e. Restrict land uses within and adjacent to agricultural lands that would compromise the agricultural viability of these lands and require new nearby land uses to mitigate any impacts on the use of agricultural lands.
  - f. Require ancillary non-agricultural land uses on agricultural lands to be ancillary to and compatible with agricultural land uses, agricultural production, and the rural character of the area, and to enhance the economic viability of agricultural operations.
- LU-18.2 Preserve agricultural lands and prime soils in non-urban areas in order to provide local and regional fresh food supplies, reduce dependence on foreign products, conserve energy, and retain the aquifer recharge capacity of these lands.
- LU-18.3 Encourage appropriate agricultural uses in Open Hillside areas that will be compatible with other goals and policies that address the specific environmental and aesthetic concerns for use of hillside lands.
- LU-18.4 Leverage agricultural lands to create and maintain a unique community character, provide open space, link to the region's history as the Valley of Heart's Delight, support the area's tourism industry, contribute to the local economy, and add to the quality of life of the community.

- LU-18.5 Enhance viability and profitability of ongoing use of agricultural lands by supporting ancillary commercial uses such as fruit stands, small-scale environmental and agricultural tourism, and the processing of agricultural products.
- LU-18.6 Encourage agricultural uses which follow ecologically sound agricultural practices and minimize the use of chemicals and pesticides in order to promote healthy soils and ground water, provide healthful local foods, reduce energy use, and reduce the farming industry's demand for resources.

**Actions**

- LU-18.7 Promote legislation to establish Countywide or Statewide agricultural preservation programs, including identifying sources of funding necessary for implementation of such programs.
- LU-18.8 Work with agricultural entities (i.e., farming industry, non-profits, land owners), the County, other Santa Clara County cities, and the Local Area Formation Commission and other stakeholders to promote public education to improve the community's understanding of the importance of agriculture in creating sustainable communities within Santa Clara County.
- LU-18.9 Explore use of agricultural easements, transfer/purchase of development rights, or other options to keep Mid-Coyote Valley as permanent agriculture.

**Hillside / Rural Areas**

The Hillside and Rural Areas are natural resources that provide a valuable scenic backdrop for much of the City and serve as habitat for a wide variety of plants and animals. The Goals & Policies in this section seek to preserve and protect the hillside and rural areas as positive contributors to the City, while also protecting the public from the natural hazards, such as landslides or fires, that can occur in these areas. The Goals & Policies in this section are intended to apply to all areas that require significant amounts of grading. Areas designated as Rural Residential and Hillside on the Land Use/Transportation Diagram are often located on slopes greater than seven percent, thus they require significant grading activities for development and should conform to these Policies. Areas with slopes greater than fifteen percent also typically require significant grading for development. These areas are typically located outside of the Greenline/Urban Growth Boundary and Urban Service Area. Areas with slopes greater than thirty percent are typically ridgelines that need special treatment to protect views from the valley and to prevent exposure to hazards. For purposes of this section, all areas designated as Hillside, Rural Residential, or Open Hillside on the Land Use/Transportation Diagram are referred to as hillside and rural residential areas. The policies in this section complement and must be considered in conjunction with other parts of this Plan, including but not limited to the Greenline/Urban Growth Boundary Policies and the Land Use/Transportation Diagram designations for individual properties.

## **Goal LU-19 – Hillside / Rural Preservation**

Preserve the valuable natural resources of the hillsides, and protect their aesthetic and habitat amenities to enhance the rural character of these areas.

### **Policies – Hillside / Rural Preservation**

- LU-19.1 Allow development in hillside and rural residential areas consistent with or below existing or planned densities in these areas to maximize resource conservation. Support development only when it is compatible with the character and pattern of the surrounding area, even if below the maximum potential residential density as designated on the Land Use/Transportation Diagram.
- LU-19.2 Apply strong architectural, site, and grading design controls through a discretionary development review process of all types of hillside and rural residential development that require significant grading activities in order to protect the hillsides and to minimize potential adverse visual and environmental impacts.
- LU-19.3 Minimize grading on hillsides and design any necessary grading or recontouring to preserve the natural character of the hills and to minimize the removal of significant vegetation, especially native trees such as Valley Oaks.
- LU-19.4 Apply the following guidelines for development in hillside and rural residential areas in order to preserve and enhance the scenic and aesthetic qualities of the natural terrain:
- a. Design development in a sensitive manner to highlight and compliment the natural environment.
  - b. Use large lot sizes and varying setbacks in order to respect and preserve natural features of the land.
  - c. Adapt construction techniques and housing types to variable terrains. Use split pads and stepped foundations where appropriate, especially to minimize required grading, and discourage conventional, single flat-pad housing designs.
  - d. Consider privacy, livability, solar orientation and wind conditions when siting residential dwellings. Dwelling unit sites should take advantage of scenic views but should be located below hilltops to protect the aesthetics and ridgeline silhouette viewed from below, from public places, and from the valley floor.
  - e. Encourage preservation of existing trees, rock outcroppings and other significant features.
  - f. When grading or recontouring of the terrain is proposed, preserve the natural character of the hills and blend the alterations into the natural terrain wherever possible.
  - g. Design streets to provide access and connectivity for area residents, and consider potential viewshed opportunity in siting development. Consider and encourage reduced width and modified street sections to design streets for utility and to minimize grading.

- LU-19.5 Apply the following guidelines to the design and construction of public and private right-of-way improvements in order to preserve and enhance the scenic and aesthetic qualities of hillside and rural areas:
- a. Design streets in consideration of the natural topography and the landscape. Consider use of divided streets and grade separations.
  - b. Encourage use of crushed gravel walks and vegetation lined swales, and only construct concrete sidewalks, curbs, and gutters when required by the topography or other regulations.
  - c. Limit street lighting to intersections, and use low-intensity lighting appropriate for these areas.
  - d. Use finishes or colors that blend man-made materials within the public right-of-way with the natural surroundings.
- LU-19.6 Avoid any new development along ridges and other major hillside areas (typically all properties that exceed 30% slope) that surround the valley floor to minimize visibility of development on these aesthetic resources.
- LU-19.7 Consider habitat conservation objectives as part of hillside development proposals.
- LU-19.8 Encourage the preservation of hillside vegetation and require appropriate revegetation and planting for projects in hillside areas, if existing vegetation must be removed.
- LU-19.9 Maintain design guidelines and policies adopted by the City to guide hillside development to promote aesthetics and enhance the rural character of hillside areas.

## **Goal LU-20 – Hillside Development**

Minimize exposure of the public to potential environmental hazards associated with development on the hillsides.

### **Policies – Hillside Development**

- LU-20.1 Allow development in hillside areas only if potential danger to the health, safety, and welfare of the residents, due to landslides, fire, or other environmental hazards, can be mitigated to an acceptable level.
- LU-20.2 Design development to minimize exposure of the public to environmental hazards, such as landslides and fires.
- LU-20.3 Require soils and geologic review of hillside development proposals to assess such potential hazards as seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, erosion and sedimentation in order to determine if these hazards are present and can be adequately mitigated. Use geotechnical studies of hillside development proposals to determine the full extent of seismic and other hazards, the optimum locations for structures, the advisability of special structural requirements, and the feasibility and desirability of a proposed structure in a specified location.
- LU-20.4 Incorporate mitigation measures identified through geotechnical and other studies necessary to protect public safety and the natural environment.

- LU-20.5 Design hillside development within areas of potential geological hazards to avoid being endangered by, or contributing to, the hazardous conditions on the site or on adjoining properties.
- LU-20.6 Discourage locating public improvements, communication facilities, and utilities in hillside areas with identified soils and/or geologic hazards to avoid any extraordinary maintenance and operating expenses. When the location of public improvements, communication facilities, and utilities in such areas cannot be avoided, implement effective mitigation measures to maximize their potential to remain functional during and after a seismic event.
- LU-20.7 Require appropriate erosion control measures in conjunction with proposed development on hillside areas susceptible to erosion.
- LU-20.8 When reviewing hillside development proposals, consider the potential for any extraordinary expenditures of public resources to provide emergency services in the event of a man-made or natural disaster.